

G. Scott Williams (SBN 226516)
Erik L. Schraner (SBN 212613)
SELTZER CAPLAN MCMAHON VITEK
A Law Corporation
750 B Street, 2100 Symphony Towers
San Diego, California 92101-8177
Telephone: (619) 685-3003
Facsimile: (619) 685-3100

California Energy Commission
DOCKETED
11-AFC-01
TN # 66146
JULY 06 2012

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:) Docket No. 11-AFC-01
)
Pio Pico Energy Center Project)
) **PRE-HEARING**
) **CONFERENCE STATEMENT**
) **BY**
) **PETITIONER CORRECTIONS CORPORATION OF**
) **AMERICA**

Petitioner Corrections Corporation of America ("CCA") submits this Pre-Hearing Conference Statement in accordance with the Notice of Prehearing Conference and Evidentiary Hearing. Petitioner CCA has a pending Motion for Leave to Intervene and is not yet an intervenor in this matter.

1. Topic areas that are complete and ready to proceed to evidentiary hearing.

CCA believes that all topic areas except noise are ready to proceed to evidentiary hearing.

2. Topic areas that are not complete and not yet ready to proceed to evidentiary hearing.

CCA proposes to submit a statement on the San Diego County LORS standards related to noise and vibration and testimony by Jeff Fuller, an expert witness on noise.

3. Topic areas that remain disputed and require adjudication.

Petitioner CCA and Applicant have not reached consensus regarding noise and vibration. While CCA hopes that this topic can be resolved before the hearing, this issue remains in dispute.

In summary, CCA disagrees with Applicant's interpretation of San Diego County LORS related to noise. Petitioner believes that the Pio Pico Energy Center ("PPEC") facility is subject to (1) the San Diego County Noise Abatement and Control Ordinance (San Diego County Code of Regulatory Ordinances section 36.401 *et. seq.*, (2) the General Plan

Noise Element, and (3) the East Otay Mesa Specific Plan and San Diego County Zoning Ordinance. In particular, the County Noise Ordinance imposes a property line noise level limit at the PPEC site's northern boundary of a not to exceed 62.5 dBA Leq between 7 a.m. and 10 p.m. and 60 dBA Leq between 10 p.m. and 7 a.m. as identified in the Final Staff Assessment.

Attached as **Attachment A** is Petitioner CCA's Testimony by Jeff Fuller.

4. Witness list and description of testimony.

WITNESS	TOPIC AREA	TESTIMONY SUMMARY	TIME REQUIRED FOR TESTIMONY
Jeff Fuller	Noise & Vibration	The proposed PPEC facility will exceed San Diego County LORS standards related to noise and vibration, and will adversely affect CCA's facility and the surrounding environment. The County's application of the LORS standards to the CCA facility.	1 hour (estimated)
Brad Wiggins	CCA Major Use Permit	CCA's intended use of its property and its entitlement history.	½ hour (estimated)

Jeff Fuller's professional qualifications and experience are attached as **Attachment B**.

5. The identities of the witnesses, if any, that the party desires to have testify via telephone.

None. Jeff Fuller and Brad Wiggins will testify in person at the hearing.

6. Cross-examination topic areas.

TOPIC AREA	TESTIMONY SUMMARY	TIME REQUIRED FOR TESTIMONY
Noise & Vibration	Testimony on the San Diego County LORS standards for noise and vibration, and the impact the Plant will have on CCA's facility and the surrounding environment.	1 hour (estimated)

7. Exhibit and declaration list.

CCA's proposed preliminary list of exhibits is attached as **Attachment C**. CCA intends to offer into evidence testimony on the PPEC facility's noise impacts and the San Diego County LORS standards for noise.

8. Proposals for briefing deadlines, vacation schedules, and other scheduling matters.

CCA has no changes to the scheduled hearing date. CCA request an opportunity to submit a brief on the San Diego County LORS standards for noise and a statement by expert witness Jeff Fuller on noise.

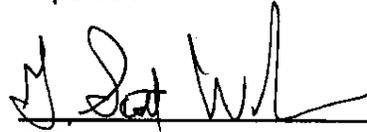
9. A description of any modifications to the conditions of certification listed in the Final Staff Assessment that the party intends to propose.

CCA does not intend to propose any changes to the conditions of certification listed in the Final Staff Assessment. CCA requests that the Energy Commission reject Applicant's proposed amendments to Condition of Certification, NOISE-4.

Dated: July 6, 2012

SELTZER CAPLAN MCMAHON VITEK
A Law Corporation

By:



G. Scott Williams

Erik L. Schraner

Attorneys for Corrections Corporation of America

ATTACHMENT A

**PETITIONER CORRECTIONS CORPORATION OF AMERICA'S
TESTIMONY RELATED TO NOISE BY JEFF FULLER**

PIO PICO ENERGY CENTER PROJECT (11-AFC-01)

**Petitioner Corrections Corporation of America
Testimony For
NOISE**

Petitioner's Witness: **Jeff Fuller**

Date: **July 6, 2012**

Testimony:

Applicant Corrections Corporation of America ("CCA") provides the following testimony in support of proposed Condition of Certification NOISE-4.

The County of San Diego ("County") imposes three separate noise standards:

1. The Noise Abatement and Control Ordinance ("Noise Ordinance") in the County Code of Regulatory Ordinances ("County Code");
2. The General Plan Noise Element; and
3. The East Otay Mesa Specific Plan.

PPEC refuses to use two of the three noise standards and proposes to apply only one of the three noise standards – the East Otay Mesa Specific Plan noise standard – to the PPEC facility.

A. The County Code Noise Abatement and Control Ordinance and General Plan Noise Element govern noise levels.

PPEC claims that the East Otay Mesa Specific Plan noise standards are the only applicable noise standards. This is false. The County Code prevails over the East Otay Mesa Specific Plan:

1. The Specific Plan requires PPEC to comply with the County Code.

The Specific Plan requires all projects to conform to the regulatory provisions in the County Code. The Specific Plan states:

The regulations that serve to implement the Specific Plan are described in this section. The use of all land in the East Otay Mesa Specific Plan Area and any buildings or structures located upon this land and the construction, reconstruction, alteration, expansion, or relocation of any building, structure or use upon the land, **shall conform to the applicable regulatory provisions contained in this Specific Plan, the San Diego County Zoning Ordinance, and the San Diego County Code.**¹

Furthermore, the Specific Plan acknowledges that the Noise Ordinance and the General Plan apply when it authorizes the County to waive Specific Plan height restrictions for noise walls if necessary to comply with the Noise Ordinance or the General Plan Noise Element:

¹ East Otay Mesa Specific Plan, pgs. 13 – 14 (emphasis added).

Within the setback area, fences, walls and hedges shall have a maximum height of 6 feet above grade. **Noise walls may be higher than 6 feet when additional height is needed to comply with General Plan Noise Element or Noise Ordinance requirements.**²

It would make no sense for the Specific Plan to waive height restrictions for noise walls to permit them comply with the Noise Element and the Noise Ordinance if the Noise Element and the Noise Ordinance do not apply.

2. East Otay Mesa Specific Plan does not exempt projects from compliance with the County Code.

PPEC's premise that the Specific Plan and Zoning Ordinance standards are the only applicable noise standards is based on a statement in the County Zoning Ordinance that specific plan conditions and restrictions concerning uses shall prevail over other Zoning Ordinance regulations. This provision states:

All uses established pursuant to an applicable Specific Plan shall be subject to all of the conditions and restrictions set forth in the Specific Plan, and said Specific Plan conditions and restrictions concerning uses shall prevail over The Zoning Ordinance regulations to the extent of any conflict between them.³

PPEC ignores the limited scope of this provision. By its terms, it only applies to regulations in the Zoning Ordinance. It does not apply to regulations in the County Code or the General Plan.

The governing noise regulations – the Noise Abatement and Control Ordinance – is a County Code provision. It is not a Zoning Ordinance regulation. The PPEC facility must, therefore, comply with all applicable noise standards, including the Noise Ordinance and the General Plan Noise Element.

The County Code is a compilation of the County's regulatory ordinances. The County adopted these ordinances pursuant to State law.⁴ The provisions of these ordinances "shall be construed to give effect to the objectives of this code and to promote justice."⁵

Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.⁶ Compliance with the East Otay

² East Otay Mesa Specific Plan, Table 3.2-1, pg. 103 (emphasis added.)

³ San Diego County Zoning Ordinance §2888(c).

⁴ San Diego County Code 11.102; Government Code §25120 *et. seq.*

⁵ San Diego County Code §11.105.

⁶ Government Code §25132(a).

Mesa Specific Plan or the Zoning Ordinance does not exempt a project or use from compliance with the County Code or the Noise Ordinance.

3. The Zoning Ordinance requires all projects to comply with the County Code noise regulations.

The Specific Plan requires all uses to comply with the Performance Standards specified in the Zoning Ordinance.

All uses shall comply with applicable portions of the Performance Standards in Section 6300 et seq. of the County Zoning Ordinance.⁷

Regarding noise measurements, the Specific Plan refers to Section 6310 in the Zoning Ordinance:

These policies and regulatory procedures and standards shall apply to all areas of the East Otay Mesa Specific Plan. East Otay Mesa Specific Plan Regulatory Provisions Chapter Three – Regulatory Provisions noted that all uses shall comply with applicable portions of Section 6300 et seq. of the County Zoning Ordinance: Performance Standards. Regarding noise measurements, uses in the Activity Node, District Commercial and Commercial Center shall comply with Section 6310.b; uses in the Technology Business Park shall comply with Section 6310.c; uses in the Light Industrial areas shall comply with Section 6310.d; uses in the Heavy and Mixed Industrial areas shall comply with Section 6310.e; and uses in the Rural Residential and Conservation/Limited Use areas shall comply with Section 6310.b.⁸

The Zoning Ordinance noise regulations require all projects to comply with the noise standards specified in the County Code. Section 6306 of the Zoning Ordinance states:

When located in the zones specified in Section 6310, any industrial use and Construction Sales and Services, Scrap Operations, and Wholesaling Storage and Distribution Use shall be so operated that the noise level inherently and regularly generated shall not exceed the noise limits indicated by Section 6310 after modification, where applicable, by the correction factors indicated in Section 6312. Sound from construction or demolition work and warning devices are exempted from these standards. **Nothing in the Zoning Ordinance shall limit the application of provisions of the San Diego County Code pertaining to noise.** (emphasis added.)

⁷ East Otay Mesa Specific Plan, p. 22.

⁸ East Otay Mesa Specific Plan, p. 81-82.

Since the Zoning Ordinance specifically declares that it does not limit application of the County Code noise standards, PPEC must comply with the County Code provisions pertaining to noise.

4. The more strict noise provision prevails.

Zoning Ordinance provisions are a minimum standard and the standards imposed by the Zoning Ordinance only apply if they impose a greater restriction than the County Code noise regulations. Zoning Ordinance section 1010 states:

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirement for the promotion of the public health, safety, comfort, convenience and general welfare. It is not the intent of these regulations to interfere with or abrogate or annul any easement, covenant or other agreement between parties. **When these regulations impose a greater restriction upon the use of buildings or land, or upon the height of buildings, or require larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of these regulations shall control.**⁹

It follows that the Zoning Ordinance standards do not apply if they impose a lesser restriction on the use of buildings or lands. The ordinance, rule, or regulation that imposes a greater restriction must be applied.

B. The Noise Ordinance Sound Level Limits.

The Noise Abatement and Control Ordinance (the "Noise Ordinance") codified in the County Code makes it unlawful for any person to cause or allow the creation of any noise that exceeds the applicable limits of the Noise Ordinance.

Except as provided in section 36.409 of this chapter, it shall be unlawful for any person to cause or allow the creation of any noise, which exceeds the one-hour average sound level limits in Table 36.404, when the one-hour average sound level is measured at the property line of the property on which the noise is produced or at any location on a property that is receiving the noise.¹⁰

The applicable noise limit cannot be exceeded at any point on or beyond the boundaries of the property on which the sound is produced.

The applicable noise limits for areas zoned S88 (Specific Planning Areas), such as the East Otay Mesa Specific Plan area, are specified by County Code section 36.604(c), which states:

⁹ Zoning Ordinance §1010.

¹⁰ County Code of Regulatory Ordinances §36.404(a).

S88 zones are Specific Planning Areas which allow different uses. **The sound level limits in Table 36.404 above that apply in an S88 zone depend on the use being made of the property.** The limits in Table 36.404, subsection (1) apply to property with a residential, agricultural or civic use. The limits in subsection (3) apply to property with a commercial use. The limits in subsection (5) apply to property with an industrial use that would only be allowed in an M50, M52 or M54 zone. The limits in subsection (6) apply to all property with an extractive use or a use that would only be allowed in an M56 or M58 zone.¹¹

The County classifies CCA's facility as a civic use. The PPEC facility is also a civic use, as conceded in PPEC's Opening Testimony for Noise.¹²

Civic uses are subject to the noise limits specified in subsection 1 of Table 36.404. The applicable noise limit is therefore 50 dBA (one hour sound level limit) between 7 a.m. to 10 p.m. and 45 dBA (one hour sound level limit) from 10 p.m. to 7 a.m.

PPEC also claims the PPEC facility is a civic use type "allowed within a heavy Industrial use area with a Major Use Permit", and then argues that the industrial noise limits apply (80 dBA). Assuming that the PPEC facility is a heavy industrial use despite PPEC's acknowledgement that it is a civic use, the sound level limit would be an average of the two applicable sound level limits.

The sound level limit at a location on a boundary between two zones is the arithmetic mean of the respective limits for the two zones. The one-hour average sound level limit applicable to extractive industries, however, including but not limited to borrow pits and mines, shall be 75 decibels at the property line regardless of the zone in which the extractive industry is located.¹³

The arithmetic mean of the limits for the two zones – the PPEC facility and the CCA facility – is 60 dBA (night) and 62.5 dBA (day).

¹¹ County Code of Regulatory Ordinances 36.404(c) (emphasis added).

¹² Pio Pico Energy Center Project, Applicant's Opening Testimony for Noise, dated June 26, 2012, p. 1 & p. 2.

¹³ County Code of Regulatory Ordinances §36.604(e).

Conclusion.

The PPEC facility will generate substantial noise level that will impact the living standards of thousands of inmates that will be housed within CCA's facility. Energy Commission staff prepared a detailed analysis of the County's noise standards and appropriately applied the County noise standards to the PPEC facility in drafting Condition of Certification, NOISE-4.

CCA, therefore, requests that the Energy Commission reject Applicant PPEC's proposed amendments to Condition of Certification, Noise 4, and impose the Conditions of Certification proposed by the Energy Commission staff addressing noise in accordance with the San Diego County Code of Regulatory Ordinances and General Plan Noise Element.

ATTACHMENT B

**EXPERT WITNESS JEFF FULLER'S
PROFESSIONAL QUALIFICATIONS AND EXPERIENCE**



Jeffrey D. Fuller

Professional Credentials

Bachelor of Science, Environmental Health, University of Washington, Seattle, 1981
Registered Environmental Health Specialist (REHS), California, #4628 (1981)
Approved Acoustical Consultant, County of San Diego
Member, Institute of Noise Control Engineering (INCE)
Member, FHWA Transportation and Research Board (TRB)
Member, Acoustical Society of America (ASA)
Former Member, City of San Diego Noise Abatement and Control Board

Special Qualifications

Noise and Vibration Services Group Leader, San Diego, California (2005-Present)
Manager, URS Corporation, Noise and Vibration, San Diego, California (1996-2005)
Senior Acoustician, Ogden Environmental and Energy Services Company, San Diego, California (1989-1996)
Noise Abatement and Control Administrator, City of San Diego Building Inspection Department (1981-1989)

Introduction

Mr. Fuller has more than 30 years of experience in acoustical assessments and project management. He is responsible for project planning, directing and supervising staff professionals, and the coordination and preparation of noise and vibration technical studies and sections of CEQA/NEPA documents. His responsibilities include the assessment of impacts associated with energy, transportation (airports, helipads, railroads, and highways), residential and mixed use developments, commercial/industrial and recreational projects. His expertise with noise/land use compatibility is utilized regionally and nationally to provide innovative solutions to numerous client problems.

Mr. Fuller's technical capabilities include the use of the computer-aided noise prediction models designed by agencies such as the Federal Highway Administration, Federal Aviation Administration, and Department of Defense. These programs are utilized to predict noise levels and to design and evaluate effective measures to mitigate noise impacts. Additionally, he frequently uses various sound level meters, dosimeters, and spectrum analyzers for conducting noise-monitoring surveys. Mr. Fuller also prepares industrial noise studies for compliance with OSHA and Cal/OSHA requirements, structural noise studies for compliance with California Administrative Code, Title 24, Noise Insulation Standards and US Department of Housing and Urban Development Guidelines, and assessments for impacts to wildlife.

Relevant Experience

Northstar Unit Environmental Impact Statement, British Petroleum Exploration Inc., Prudhoe Bay, AK — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise section to an EIS prepared for the U.S. Army Corps of Engineers District, Alaska with the cooperation of the Minerals Management Service, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and National Marine Fisheries Service. The project consists of the development and production of oil and gas from the Northstar Unit located approximately six miles offshore of the Point Storkersen area in the Alaskan Beaufort Sea. Noise impacts to humans and wildlife from activities from project construction, operation, maintenance, and abandonment were evaluated. Construction impacts include those associated with: ice road construction, reconstruction of Seal Island, including gravel haul and placement; installation of subsea pipelines

and onshore oil and gas pipelines; installation of island facilities; and noise from construction activities, phase drilling, vessel traffic, and helicopter flights.

ExxonMobil Offshore LNG Re-gasification, ExxonMobil, Lake Charles, LA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise section of the environmental documents submitted to the US Coast Guard in support of a Deepwater Port Application for the proposed Pearl Crossing LNG receiving and re-gasification terminal about 40 miles offshore in the Gulf of Mexico. In addition to the terminal, the project consisted of connecting natural gas pipelines to a landfall near Johnson's Bayou, Louisiana and a 64-mile overland pipeline to a tie-in with existing pipeline facilities. The project also included development of a new graving dock at a coastal location for construction of the offshore terminal, which will be floated and towed to its final operational position. Because the project included components in different federal jurisdictions, the impacts associated with the pipeline and metering stations were addressed in a separate application to the Federal Energy Regulatory Commission.

ExxonMobil Onshore LNG Re-gasification / Vista del Sol, ExxonMobil, Corpus Christi, TX — Prior to joining Kimley-Horn, Mr. Fuller prepared a Noise Resource Report for submittal as part of the application to the Federal Energy Commission for the proposed Vista del Sol LNG receiving and re-gasification terminal and a connecting natural gas pipeline near Corpus Christi, Texas. The proposed facilities will be designed to produce about 1 billion cubic feet per day of high-quality natural gas. Approximately 100 marine LNG carrier vessels per year will offload cryogenic LNG liquid at ambient pressure to storage facilities at the proposed terminal. A combination of open rack vaporizers and heat transfer fluid boilers will be used to heat the LNG to a vapor state for shipment by pipeline. Impacts resulting from both construction and operation of all project facilities were evaluated.

Anaheim Municipal Power Plant, City of Anaheim, CA — Mr. Fuller prepared a noise analysis for an Application for Certification for a nominal 195 -megawatt peaking facility using four natural gas-fired General Electric LM 6000PC Sprint combustion turbines and associated infrastructure. The analysis addressed CEC and local noise requirements.

Agua Mansa Power Plant Combined Cycle Conversion, City of Colton and URS Corporation, Colton, CA — Mr. Fuller prepared a noise analysis for the Combined Cycle Conversion project at the Agua Mansa Power Plant. The project site is located on the existing Agua Mansa Power Plant facility, which includes a simple-cycle LM-6000 turbine generator and associated equipment. The project included the replacement of the generator with the HRSG and the addition of the STG, switchyard, cooling tower, and pumps,

BPAE Kern Front Power Plant, BP Alternative Energy and URS Corporation, Bakersfield, CA — Mr. Fuller prepared a noise analysis for an Application for Certification for a nominal 725-megawatt baseload facility consisting of two Siemens SGT6-5000F natural gas-fired combustion turbines and one condensing steam turbine generator in Bakersfield, California. The analysis addressed the California Energy Commission and local noise requirements.

Panoche Energy Center, Panoche Energy Center, LLC, Fresno County, CA — Mr. Fuller prepared a noise analysis for an Application for Certification for a nominal 400-megawatt peaking facility consisting of four General Electric LMS100 natural gas-fired combustion turbine generators, emissions control equipment, one cooling tower, and process water treatment equipment and other associated equipment. The analysis addressed CEC and local noise requirements.

Niland Gas Turbine Plant, IID Energy, Niland CA — Mr. Fuller provided noise technical review and analysis for an Application for Small Power Plant Exemption (SPPE) to IID Energy and URS Corporation for the permitting of a nominal 93-megawatt simple-cycle power plant on a 160-acre site in Niland, California. In addition, Jeff provided testimony at the California Energy Commission Staff Workshop.

ECGS, IID Energy, El Centro, CA — Mr. Fuller provided noise technical review and analysis for an Application for Small Power Plant Exemption (SPPE) to IID Energy and URS Corporation for the construction and operation of the ECGS Unit 3 Repower Project. The project consisted of minor modifications to the existing Unit 3 cooling tower,



replacement of the Unit 3 condenser, minor modifications to Unit 3 STG the 92kV electrical interconnection and modifications to the existing gas interconnection facilities.

UCSD Central Utilities Plant Expansion, University of California, San Diego, CA — Prepared a noise technical report that assessed potential noise impacts from the expansion of the Central Utilities Plant. Project components included a new turbine generator and a waste heat recovery steam generator; UREA room, complete with a UREA circulation and metering skid, dilution blower, UREA storage tank, and decomposition chamber; an enclosed fuel gas compressor skid with exhaust fan; and a second floor electrical room. The analysis included detailed near field and far field sound level and octave band measurements and noise modeling using Cadna/A. Mitigation measures were recommended to minimize noise at nearby sensitive land uses.

UCSD Satellite Utilities Plant, University of California, San Diego, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise technical report that assessed potential noise impacts from a proposed utilities plant. The project included components that would support the continued facilities development of the West Campus. The SUP would provide increased capacity of chilled water and emergency electrical power to the West Campus. Mitigation measures were recommended to minimize noise at nearby sensitive land uses.

Puerto Coronado Offshore Re-gasification Facility, Chevron-Texaco, Baja California, Mexico — Prior to joining Kimley-Horn, Mr. Fuller served as task manager for a noise analysis to build an offshore LNG re-gasification facility near the Coronado Islands approximately 13 kilometers off the coast of northern Baja California. The facility will be used to receive the LNG, as well as for storing and re-gasifying it. The re-gasified LNG will be transported to the shore through a new 16 km submarine pipeline. Noise from construction and operation of the facility to humans and marine wildlife were assessed.

La Paz Power Plant Project, Allegheny Energy, La Paz County, AZ — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for the La Paz Power Plant Project. The Proposed Action is to construct, operate, and maintain a nominal 500-megawatt natural gas-fired, combined-cycle power plant and ancillary facilities.

Glendale Grayson Unit 9, Glendale Water and Power, Glendale, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for the addition of an LM6000 peaker unit and ancillary components at the existing power plant in the City of Glendale. The analysis consisted of detailed noise modeling and extensive field analysis. The plant subsequently has been approved to operate.

Delano Biomass-Fired Power Plant, Thermo Electron Energy Systems, Bakersfield, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared an acoustical analysis to evaluate potential noise impacts associated with expansion of the existing 27-MW (net) output biomass-fired power plant (phase I) to include an additional 21-MW (net) power plant. Onsite noise monitoring of the cooling tower, front-end loaders, chippers, hog, stacker/reclaimer, boiler, turbine, and trucks was used to determine future site operation noise levels. Noise attenuation calculations were used to estimate future noise levels at the closest sensitive receptors to the site. Future noise levels were found to be consistent with the Kern County Noise Element of the General Plan.

AES Huntington Beach Generating Station Retool Project, AES, Huntington Beach, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for an Application for Certification retool Units 3 and 4. The proposed project will produce a nominal 450 MW. Jeff provided testimony before the California Energy Commission. The plant subsequently been approved to operate.

Potrero Power Plant, Mirant, San Francisco, CA — Prior to joining Kimley-Horn, Mr. Fuller was Task Manager for an Application for Certification for the addition of a new 500-MW combined cycle unit (Unit 7) on the site of the existing Potrero plant. He prepared a noise analysis as part of the submittal. The AFC has subsequently been deemed "data adequate."



Contra Costa Power Plant, Mirant, Contra Costa County, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis on behalf of SECAL for an Application for Certification to the California Energy Commission for a 500-MW combined cycle gas turbine plant on the site of the existing power plant. The plant subsequently has been approved to operate.

Three Mountain Power Plant, Ogden Power, Burney, CA — Prior to joining Kimley-Horn, Mr. Fuller was Task Manager for an Application for Certification. Mr. Fuller prepared a noise study for the addition of a 500-MW gas-fired power plant in Burney. In addition, he provided testimony to the California Energy Commission for the certification of the plant.

West Bend 1, Kansas City Power & Light Company, Kansas City, MO — Prior to joining Kimley-Horn, Mr. Fuller prepared a draft noise analysis for the West Bend 1 Power Plant Project. The Proposed Action was to construct, operate, and maintain a nominal 750-megawatt (MW) coal-fired power plant and ancillary facilities.

Big Sandy Energy Project, Mohave County, AZ — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for the Big Sandy Power Project. The Proposed Action was to construct, operate, and maintain a 720-megawatt natural gas-fired, combined-cycle power plant and ancillary facilities. The power plant would be interconnected to the regional electric transmission grid through an existing 500-kilovolt transmission line.

Termocabo Thermal Power Plant Recife, Pernambuco, Brazil — Prior to joining Kimley-Horn, Mr. Fuller served as Noise Task Manager for a proposed 49.5 MW power plant in the Cabo de Santo Agostinho municipality of Pernambuco, Brazil. Evaluated noise impacts based on Brazil and World Bank noise standards. Evaluated the ambient noise environment and conducted noise modeling of the proposed power plant using Cadna A. Identified potential noise impacts and recommended mitigation measures for the nearby residential neighborhood

Power Plant Siting Noise Study, American National Power Company, Midlothian, TX — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise study, which assessed potential impacts associated with the siting of a power plant in Texas. Acoustical calculations were performed to estimate worst case sound levels at noise sensitive receptors and at the proposed plant's property line. Applicable noise criteria were provided to determine the significance of the projected noise levels.

Harbor Generating Station EIR, Port of Los Angeles, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise technical report for the Los Angeles Department of Water and Power (LADWP) evaluating the potential noise impacts of demolishing two existing steam generators and constructing a replacement gas turbine generator at the Harbor Generating Station. Ambient noise levels from the power facility were characterized using a number of in-field measurements onsite, at the project site boundary, and at adjacent sensitive uses in the project vicinity. The proposed construction traffic routes were also evaluated for the impact of increased truck traffic on noise sensitive receptors. Estimates of construction noise levels were formulated based on equipment usage information provided by LADWP.

Louisa County Virginia Power Plant, Entergy Energy, Louisa County, VA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for the Louisa County Power Plant Project. The Proposed Action is to construct, operate, and maintain a nominal 1000-megawatt (MW) natural gas-fired, combined-cycle power plant and ancillary facilities. The analysis was based on detailed sound level measurements and acoustical modeling.

Puerto Viejo Power Plant, Dominican Republic — Prior to joining Kimley-Horn, Mr. Fuller served as Noise Task Manager for a proposed 250 MW coal fired power plant in the Dominican Republic. Evaluated noise impacts based on The Republica Dominica Secretaria de Estado de Medio Ambiente y Recursos Naturales criteria and World Bank noise standards.



Guam Emergency Power Plant, ENRON Engineering & Construction Company, Piti, Guam — Prior to joining Kimley-Horn, Mr. Fuller conducted a noise survey near the project site. Noise sensitive receptors were identified and plotted. The ambient noise environment onsite and at noise sensitive receptors were quantified based on a series of sound level measurements. The measurement results were compared to the U.S. Environmental Protection Agency and U.S. Department of Housing and Urban Development criteria to assess the land use compatibility of the proposed project.

Wildflower Power Plant, Wildflower Energy, LP, San Diego, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis for the construction and operation of a nominally rated 45-MW peaker power plant at three locations in the City of San Diego. The analysis focused on an LM6000 aeroderivative enhanced sprint combustion turbine-generator and ancillary components. The analysis was submitted in an Application for Certification (AFC) to the California Energy Commission (CEC). The plant subsequently has been approved to operate.

Los Angeles County Metropolitan Transportation Authority, Initial Study/Negative Declaration for Division 3 Compressed Natural Gas Project — Prior to joining Kimley-Horn, Mr. Fuller prepared an analysis that assessed potential noise and vibration impacts associated with the construction and operation of a natural gas facility for the Los Angeles bus fleet. The existing noise environment was described. Sound levels from the compressors and other components were projected to the residential receptors in the project vicinity. The potential for impacts from ground borne vibration was also assessed.

Geothermal Drilling Rig, Magma Power Company, Imperial County, CA — Prior to joining Kimley-Horn, Mr. Fuller assessed noise levels produced by geothermal well drilling in the Salton Sea area. Testing involved a series of half- and full-hourly sound level and spectral measurements over a time interval of approximately one week. The results led to the semi-empirical determination of the noise attenuation of the drilling rig as a function of distance and frequency for all operational phases. This allowed explorers to select sites and drill pad configurations.

Interstate Gas Transmission Project, Kinder Morgan, Weld County, CO / Kimball County, NE / Cheyenne County, NE — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis in accordance with the FERC noise assessment criteria to construct and operate both new and expanded compression facilities on a segment of its interstate natural gas pipeline which extends from the Cheyenne Hub (Rockport Station) in Weld County, Colorado northeastward approximately 100 miles to the Huntsman Storage Facility in Cheyenne County, Nebraska.

Sayre NSS (Station 184) Equipment Noise Specifications Review, Kinder Morgan, Sayre, OK — Mr. Fuller reviewed bid documents for the equipment proposed for the expansion of the Kinder Morgan gas compressor station in Oklahoma. The review focused on specifications provided by Caterpillar for the proposed equipment (G3612 and G3616) to ensure compliance with FERC requirements.

TransColorado Expansion Project, Kinder Morgan, Dolores / San Miguel / Montrose / Delta / Mesa Counties, CO — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise analysis in accordance with the FERC noise assessment criteria to construct or modify five compressor stations at various locations in Colorado. Major noise sources associated with the project included the generators and compressor engines and cooler fans. Noise from construction was also assessed.

Carson Hydrogen Facility, Praxair, Inc., Carson, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise section of an EIR that evaluated potential noise impacts associated with construction and operation of the gas hydrogen plant and 27-megawatt steam cogeneration facility. Acoustical calculations were performed to project noise levels to the facility property line and to the closest noise-sensitive receptors. A detailed impact assessment was also prepared along the underground pipeline alignment.



Kimley-Horn
and Associates, Inc.

Southern Ute Indian Tribe (SUIT) Oil and Gas Exploration and Development EIS, SUIT — Prior to joining Kimley-Horn Mr. Fuller prepared the noise section of the EIS. Noise impacts to sensitive receptors were estimated based on acoustical calculations. Major noise sources included well drilling and dewatering, produced water injection facilities, and gas compressor facilities. Mitigation measures were recommended.

Wind Implementation Noise Monitoring Program, Riverside County, CA — Prior to joining Kimley-Horn, Mr. Fuller prepared a noise technical study that quantified noise from wind turbines throughout Riverside County and provided recommendations for future noise studies and regulatory requirements. The Wind Implementation Monitoring Program was originally developed in May 1983 to periodically evaluate the large-scale wind energy development in Riverside County pursuant to the General Plan.

ATTACHMENT C

**PETITIONER CORRECTIONS CORPORATION OF AMERICA'S
LIST OF EXHIBITS AND DECLARATIONS**

Docket Number: 11-AFC-01

Date: July 23, 2012

Project Name: Pio Pico Energy Center

**PETITIONER CORRECTIONS CORPORATION OF AMERICA
 PROPOSED EXHIBIT LIST**

Exhibit	Docket #	Brief Description	Offered	Admitted	Refused
Applicant's Exhibits					
1	59646	Application for Certification (AFC) for Pico Pico Energy Center, Application - Docket # 2011-AFC-01, Environmental Information and Appendices, submitted by Applicant			
14	61017	Application for Certification Refinement ("AFC Refinement") submitted by Applicant dated June 2011			
Petitioner Corrections Corporation of America Proposed Exhibits					
**400	**NA	San Diego County General Plan Noise Element			
401	NA	San Diego County Noise Abatement and Control Ordinance			
402	NA	East Otay Mesa Specific Plan			
403	NA	Major Use Permit for the Corrections Corporation of America facility			
404	NA	Noise Report Prepared for the Corrections Corporation of America facility			
405	NA	Corrections Corporation of America's Testimony by Jeff Fuller to Energy Commission			
406	NA	Declaration of Jeff Fuller re Noise			
407	NA	Professional Qualifications and Experience of Jeff Fuller			
408	NA	Final Staff Assessment			
409	NA	Preliminary Staff Assessment			

**Exhibit Nos. are proposed exhibit numbers pending the Energy Commission's ruling on Petitioner's motion for leave to intervene.

**NA = Docket number will be assigned upon the Energy Commission's ruling on Petitioner's request for leave to intervene.

Petitioner will revise this column upon the request of the Energy Commission.

** Petitioner will update the Proposed Exhibit List to identify any exhibits listed on Staff's Exhibit list.

** Petitioner will be distributing documents not yet part of the record.

** Exhibit No. 406 to be submitted.

G. Scott Williams (SBN 226516)
SELTZER CAPLAN MCMAHON VITEK
A Law Corporation
750 B Street, 2100 Symphony Towers
San Diego, California 92101-8177
Telephone: (619) 685-3151
Facsimile: (619) 702-6842
Email: swilliams@scmv.com

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:) Docket No. 11-AFC-01
)
) DECLARATION OF SERVICE
)
Pio Pico Energy Center Project)
)
_____)

I, Cinthia Christensen, declare that on July 6, 2012, I served and filed copies of the attached:

Pre-Hearing Conference Statement by Petitioner Corrections Corporation of America.

accompanied by a copy of the most recent Proof of Service list located on the web page for this project with the Docket Unit. The documents have been sent to the Commission and the applicant, as well as the other parties in this proceeding (as shown on the attached Proof of Service list) in the following manner:

FOR SERVICE TO THE APPLICANT AND ALL OTHER PARTIES:

- sent electronically to all e-mail addresses on the Proof of Service list;
- by personal delivery or by depositing in the United States mail at San Diego, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

- sending an original paper and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

- depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 11-AFC-01
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 6, 2012, at San Diego, California.


Cinthia G. Christensen



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION
FOR THE *PIO PICO ENERGY CENTER PROJECT***

**Docket No. 11-AFC-01
PROOF OF SERVICE**
(Revised 6/25/2012)

APPLICANT

Gary Chandler, President
Pio Pico Energy Center
P.O. Box 95592
South Jordan, UT 84095
grchandler@apexpowergroup.com

David Jenkins, Project Manager
Pio Pico Energy Center, LLC
1293 E. Jessup Way
Mooresville, IN 46158
djenkins@apexpowergroup.com

APPLICANT'S CONSULTANTS

Maggie Fitzgerald
Sierra Research
1801 J Street
Sacramento, CA 95811
MFitzgerald@sierraresearch.com

COUNSEL FOR APPLICANT

John A. McKinsey
Melissa A. Foster
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
jamckinsey@stoel.com
mafoster@stoel.com

INTERESTED AGENCIES

California ISO
e-mail service preferred
e-recipient@caiso.com

INTERVENOR

April Rose Sommer
Attorney for Rob Simpson
P.O. Box 6937
Moraga, CA 94570
e-mail service preferred
aprilsommerlaw@yahoo.com

ENERGY COMMISSION –
DECISIONMAKERS

CARLA PETERMAN
Commissioner and Presiding
Member
*carla.peterman@energy.ca.gov

KAREN DOUGLAS
Commissioner and Associate
Member
e-mail service preferred
*karen.douglas@energy.ca.gov

Raoul Renaud
Hearing Adviser
*raoul.renaud@energy.ca.gov

Jim Bartridge
Presiding Member's Advisor
*jim.bartridge@energy.ca.gov

Galen Lemei
Associate Member's Advisor
e-mail service preferred
*galen.lemei@energy.ca.gov

ENERGY COMMISSION STAFF

Eric Solorio
Siting Project Manager
*eric.solorio@energy.ca.gov

Kevin W. Bell
Staff Counsel
*kevin.w.bell@energy.ca.gov

Eileen Allen
Commissioners' Technical
Advisor for Facility Siting
e-mail service preferred
*eileen.allen@energy.ca.gov

ENERGY COMMISSION – PUBLIC
ADVISER

Jennifer Jennings
Public Adviser
e-mail service preferred
*publicadviser@energy.ca.gov