



TETRA TECH EC, INC.

**DOCKET**

**11-AFC-3**

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June 1, 2012

Siting Committee  
Raoul Renaud, Hearing Officer  
Eric Solorio, Project Manager  
California Energy Commission  
Docket No. 11-AFC-3  
1516 9<sup>th</sup> St.  
Sacramento, CA 95814

**Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-3, Initial Response to Sunset Greens Intervenor Data Requests, 1 through 52**

Docket Clerk:

Pursuant to the provisions of Title 20, California Code of Regulations, and on behalf of Quail Brush Genco, LLC, a wholly owned subsidiary of Cogentrix Energy, LLC, Tetra Tech hereby submits the Initial Response to Sunset Greens Intervenor Data Requests, 1 through 52. The Quail Brush generation Project is a 100 megawatt natural gas fired electric generation peaking facility to be located in the City of San Diego, California.

The topics addressed in this letter include the following:

- Background
- Alternatives
- Land Use
- Noise
- Traffic and Transportation
- Visual Resources
- Socioeconomics
- Other Areas

If you have any questions regarding this submittal, please contact Rick Neff at (704) 525-3800 or me at (303) 980.3653.

Sincerely,

Constance E. Farmer  
Project Manager/Tetra Tech

cc: Lori Ziebart, Cogentrix

TETRA TECH EC, INC.

John Collins, Cogentrix  
Rick Neff, Cogentrix  
Proof of Service List



# Quail Brush Genco, LLC

A Project Company of Cogentrix Energy, LLC

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Charlotte, North Carolina 28273-8110  
(704) 525-3800  
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June 1, 2012

Siting Committee  
Raoul Renaud, Hearing Officer  
Eric Solorio, Project Manager  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814

**Re: Quail Brush Generation Project (11-AFC-03)  
Initial Response to Intervenor Sunset Greens HOA's Data Requests Set One, SG1 through SG52**

Dear Members of the Siting Committee and Mr. Solorio:

In response to Intervenor Sunset Greens HOA's (SGHOA's) Data Requests Set One, SG1 through SG52, dated May 10, 2012 and pursuant to Section 1716(f) of the CEC's regulations, Quail Brush Generation Project (Quail Brush) objects to data requests 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 37, 39, 41, 43, 44, 45, 46, 47, 49, 50, 51, and 52. Many of the data requests are vague and SGHOA has not provided sufficient information or background to explain the relevance of the data request to this proceeding. For these data requests, it was therefore difficult for Quail Brush to decipher the nature, form or content of the specific information being sought. Accordingly, Quail Brush has provided general objections for some of the categories of the data requests identified by SGHOA as well as itemized responses for each below, along with a short description of the grounds for the objection or the reasons for the inability to provide the information, as applicable.

## **GENERAL OBJECTIONS TO THE PROPOSED PLANT**

Section 1716(b) of the CEC's regulations permits any party to request "information reasonably available to the applicant which is relevant to the notice or application proceedings or reasonably necessary to make any decision on the notice or application." The CEC's regulations do not create a forum for full-blown civil litigation discovery in which applicant is required to affirm or deny requested information in an interrogatory format. The purpose of Section 1716 is to obtain information, not to prepare for litigation. As more specifically stated below, Quail Brush objects to data requests that challenge the Applicant to take a factual position rather than seek information. The form of these data requests does not comply with the requirements of Section 1716.

**SG1. Please state all facts or objections to Reason #1 of SGHOA to Oppose the QBPP (pollution).** Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA's assertion that "the Project will add to peak time pollution during the

hottest times in the surrounding area particularly in SGHOA that includes a majority of non-air conditioned homes.”

SG2. Please state all facts or objections to Reason #2 of SGHOA to Oppose the QBPP (noise). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s assertion that the “noise from the project will be a nuisance for neighboring homes.” As shown on Figure 4.3-5 of the AFC (Received Sound Levels: Attenuated Project Operation), the anticipated attenuated sound levels from the project during operations at the closest residences will be 35-40 dBA, which is the equivalent of a typical wilderness area, a bedroom or quiet living room, or bird calls. (AFC 4.3-3). Noise from construction will be temporary and consistent with City of San Diego and City of Santee noise regulations. (AFC 4.3-10 to 4.3-13).

SG3. Please state all facts or objections to Reason #3 of SGHOA to Oppose the QBPP (property values). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s unsupported assertion that the “project will create downward pressure on already devastated property values in the closest neighborhoods.” Additionally, as stated in response to Brewster Data Request #22, economic and social effects that are not related to physical impacts do not need to be evaluated under CEQA or the CEC’s regulations.

SG4. Please state all facts or objections to Reason #4 of SGHOA to Oppose the QBPP (peak time). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s assertion that there will be “pressure to run the power plant at times outside the peak time” and potentially “all the time.” The proposed project is a peaker project designed to meet SDG&E’s needs during peak times. The proposed project will be constrained from running for more than the proposed amount of time by its contractual agreements for the delivery of power as well as by its permit limits.

SG5. Please state all facts or objections to Reason #5 of SGHOA to Oppose the QBPP (peak time). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s assertion that “present ‘peak time’ demands may soon become the norm” as it demonstrates a fundamental misunderstanding of what peak times means in the context of power distribution and when a peaker plant is called upon to provide energy to the grid. A peaker plant is designed to provide power to the grid when the baseload power plants cannot cover the need of the service area. “Peak time” demands occur when the baseload does not cover the current need. If “peak time” demands become the norm, more baseload power plants would be needed, not more peaker plants.

SG6. Please state all facts or objections to Reason #6 of SGHOA to Oppose the QBPP (continuous use). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s assertion that the operators of the proposed project will be pressured into “the continuous use of the project – not just in peak times.” As stated in response to data request SG4 above, the running time of the proposed project will be constrained by the permits it receives.

SG7. Please state all facts or objections to Reason #7 of SGHOA to Oppose the QBPP (traffic). Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to SGHOA’s assertion that construction of the proposed project will create “long delays and traffic snarls” and that traffic servicing the project will create more traffic pressure. Construction

traffic will be temporary and limited during peak traffic times. The project's traffic studies show that long delays, snarls and additional traffic pressure will not occur. As stated in response to Data Request SG17 and the Data Requests in the Traffic and Transportation section below, the only anticipated significant impact within the project study area is at the Mast Boulevard and West Hills Parkway intersection, where with mitigation the additional delay caused by the project is expected to be less than 1 second. (Traffic Impact Analysis p. 31, Attachment 1 of the Applicant's Action Item Response Memo docketed January 23, 2012).

## ALTERNATIVES

Quail Brush objects to these data requests related to the "No Project Alternative" because it misuses the term "No Project Alternative" and thereby seeks information that is not relevant to the CEC process. While the CEC's regulations require an application to analyze the "no project alternative" (Appendix B(f)(1)), the purpose of this analysis is to allow a comparison of the environmental impacts of approving the proposed project with the effects of not approving it (CEQA Guidelines § 15126.6(e)(1)).

SG8. Approved and pending projects considered in No Project Alternative as part of market availability of energy. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include the consideration of approved or pending projects but rather a consideration of the environmental impacts associated with not approving the project. Consistent with CEQA and CEC regulations, however, the project's incremental impacts have been evaluated in connection with past, present and reasonably foreseeable future projects. (Guidelines § 15130 & AFC 4.17).

SG9. Please state why the applicant has not considered the danger of cancer causing chemicals emitting from its smokestacks in the No Project Alternative considerations. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of the danger of cancer causing chemicals emitting from emissions stacks. Quail Brush analyzed air emissions and their related effects on human health in Sections 4.7 (Air Quality) and 4.8 (Public Health) of the AFC.

SG10. Please state why the applicant has not considered the use of the land for a solar field as an alternative in the No project Alternative section or in other alternative sections. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of a solar field alternative. Consistent with CEQA and the CEC regulations, Quail Brush considered solar energy processes as an alternative to the proposed project in the Alternatives section of the AFC. (AFC 3-9).

SG11. Please state why the applicant in the No Project Alternative section did not consider the lives and safety of surrounding residents who only have one exit in the event of a highly probable fire at, by, near or caused by the proposed project. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of fire safety and traffic.

SG12. Please state why the applicant in the No Project Alternative section did not consider the integrity of one of Southern California resident's major assets: Mission Trails Regional Park (MTRP). Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of regional features that are located near the proposed project site, such as the MTRP. Quail Brush analyzed the potential impacts of the proposed project on the resources of the MTRP. (See e.g., AFC 4.1-7 to 4.1-10, 4.1-15, 4.2-17 to 4.2-19, 4.3-6, AFC Figure 4.3-5, 4.5-6 to 4.5-9, AFC Figure 4.5-2).

SG13. Please state why the applicant in the No Project Alternative section did not consider the impacts of property values of the neighborhoods surrounding the proposed project. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of the impacts of property values of the neighborhoods surrounding the proposed project. Moreover, as in response to Data Request SG3 above and Brewster Data Request #22, economic and social effects that are not related to physical impacts do not need to be evaluated under CEQA or the CEC's regulations.

SG14. Please state why the applicant in the No Project Alternative section did not consider the military families residing in military housing (on Bushy Hill Dr.), elderly, veterans, infants and the disabled within visual pollution, chemical pollution plumes, dangerous fire zones, and no escape areas surrounding the proposed project. Consistent with the general objection above, Quail Brush objects to this data request because it seeks information that is not relevant to the CEC process. Analysis of the no project alternative does not include consideration of military families, elderly, veterans, infants and the disabled. Visual impacts of the proposed project are analyzed in Section 4.5 of the AFC.

SG15. Please state whether applicant admits that under the No Project Alternative, the land uses would remain as they are which is among other uses an open space overlay zone. Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. As stated in the AFC, "under the No Project Alternative, the land uses would remain as they are, and are presumed to be consistent with existing land use plans and policies." (AFC 3-7). The proposed project site is designated as "Park/Open Space" under the City of San Diego's General Plan Land Use Designations (AFC 4.2-3; AFC Figure 4.2-2).

## **LAND USE**

As raised above in response to SGHOA's section on General Objections to the Proposed Plant, Quail Brush objects to data requests that challenge the Applicant to take a factual position rather than seek information. The form of these data requests does not comply with the requirements of Section 1716.

SG16. Does the Applicant agree that if the City of San Diego rezones the land proposed for the project, then any other heavy industrial use within San Diego zoning ordinances may be permitted? Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Additionally, Quail Brush notes that it does not have any information as to whether any other heavy industrial use within San Diego zoning ordinances would be permitted, regardless of whether the City rezones the proposed project site.

SG17. Does the Applicant agree that the construction of the project will impact the neighborhoods of Santee by diverting traffic through residential streets to avoid Mast Blvd.? Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush also objects to the assertion that the construction of the project will impact neighborhoods by diverting traffic through residential streets. Construction will have a temporary impact on traffic. Additionally, construction traffic is expected to be dispersed throughout the day and minimized during peak morning and peak evening commute hours. As stated in the AFC, the project Traffic Management Plan will specify delivery routing for equipment, materials and other deliveries to facilitate traffic flow. (AFC 4.4-13). As stated in the Traffic Impact Analysis that Quail Brush docketed on January 23, 2011 in its Applicant's Action Item Response Memo, the majority of the roads, streets and intersections within the project study area will continue to operate with no significant impact due to the construction traffic. (Traffic Impact Analysis p. 31). In fact, the only anticipated potentially significant impact within the project study area is at the Mast Boulevard and West Hills Parkway intersection.

Mitigation, however, will reduce this impact to a less than significant level (less than 1 second additional delay in the AM peak period, with no change in Level of Service). (*Id.*).

SG19. Please state what impacts the proposed project would have on MTRP: 1) public use of the Park, 2) public access to the Park in each the following areas:

- a. Hiking in the MTRPk nearest the proposed plant;
- b. Use of the Kumeyaay Campgrounds;
- c. Use of Kumeyaay Lake;
- d. Use of the Equestrian Center;
- e. Use of the Eastern most portion of the Park bounded by Junipero Serra Trail, West Hills Parkway, and the San Diego River.

Quail Brush objects to this data request because it does not seek new information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). As concluded in the AFC, the proposed project has no potential impacts on the public's use of or the public's access to the MTRP. Specifically, the AFC analyzed the visual impacts of the recreational users in the MTRP (AFC 4.5-18 and 4.5-19) and identified four viewpoints within the MTRP: in the grasslands section (west of the equestrian staging area) near Old Mission Dam, at the Kumeyaay Campground and on Fortuna Saddle Trail (AFC 4.5-6 to 4.5-9, AFC Figure 4.5-2). The AFC also conducted noise monitoring within the MTRP (AFC 4.3-6, AFC Figure 4.3-5) and concluded that with mitigation the proposed project would have no significant noise impact (4.3-9 to 4.3-20). No further analysis is required for the CEC to render a decision.

## **NOISE**

Quail Brush objects to data requests that pose hypothetical situations, such as "if the proposed plant exceeded the noise level set forth in your application," and then challenge the Applicant to take a factual position rather than seek information. The form of these data requests does not comply with the requirements of Section 1716.

SG20. If the proposed plant exceeded the noise levels set forth in your application, what recourse would the neighbors have? Consistent with the general objection above, Quail Brush objects to this data request because it does not seek new information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). The AFC discusses the project's noise complaint resolution procedure and provides a sample Noise Complaint Resolution form. (4.3-20, AFC Figure 4.3-6). No further information is required by the CEC to make a decision.

SG21. If the proposed plant exceeded the noise levels set forth in your application, would the Applicant agree to limit the usage of the plant to reasonable hours of 7am to 7 pm.? Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. As discussed in response to data request SG20 above, the AFC sets forth the project's noise complaint resolution procedure. Quail Brush has no expectation that the noise from the plant will exceed permit levels and providing further response to the hypothetical situation presented in this data request is not necessary for the CEC to make a decision.

SG22. If the proposed plant exceeded the noise levels set forth in your application, would the Applicant agree to indemnify the homeowners for violation of their quiet enjoyment of their homes? Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information

that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. As discussed in response to data requests SG20 and SG21 above, the AFC sets forth the project's noise complaint resolution procedure and providing further response to the hypothetical situation presented in this data request is not necessary for the CEC to make a decision.

SG23. Why was the Wasila engine chosen for the proposed plant if there are more modern and quieter engines available? Consistent with the general objection above, Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716. Quail Brush does not agree with the assertion that there are more modern and quieter engines available that are consistent with Best Available Control Technology determinations and the Request for Offers (RFO), that have been proven reliable and would produce the power necessary to fulfill the terms of the agreement with SDG&E. As stated in the AFC, the proposed project was designed to satisfy SDG&E's 2009 RFO (referenced in response to Data Request SG48 below), which sought several types of energy products to support reliability within SDG&E's service territory. (AFC 2-4, 2-5 and Appendix F.6 p. 1). The 11 Wartsila model 20V34SG reciprocating engines are proposed because they have a total capacity of 100 MW, and have the capability of starting quickly and adjusting to load levels easily. (AFC 2-5, 2-6, 4.7-11 and Appendix F.6 p. 8). The Wartsila engines are proven technologies that have been commercially demonstrated in numerous installations and are considered mature from a development standpoint, which is helpful in meeting the RFO's requirement that the project provide at least 98 percent availability. (AFC 2-6 and Appendix F.6 p. 1). Additionally, the plant will be designed with mitigation measures to minimize noise impacts to less than significant and plant noise will not exceed an absolute limit of 40dBA nighttime/50dBA daytime at any single family residential receptor location. (AFC 4.3-17 and 4.3-18).

## **TRAFFIC AND TRANSPORTATION**

SG24. Do you agree that the traffic study referenced in the application was taken at a time when the economic downturn substantially reduced the traffic at the intersection of Mast Blvd and Highway 52? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. This data request does not define what SGHOA means by "economic downturn" and therefore it is difficult for Quail Brush to respond to the assertion included in this data request. The AFC referenced the traffic study completed in connection with the Sycamore Landfill Master Plan Draft EIR (2008) as well as average annual daily traffic (AADT) information from Caltrans (2011) and San Diego Association of Governments (2011). (AFC 4.4-5 to 4.4-7). Additionally, the Traffic Impact Analysis (referenced above in SG17) includes AM and PM peak hour intersection turning movement volume counts that were conducted in April 2011 and September 2011 as well as average daily traffic (ADT) volume counts that were conducted in March 2011. (Traffic Impact Analysis p. 7). Under CEQA, "an EIR must include a description of the physical environmental conditions in the vicinity of the project...at the time environmental analysis is commenced, from both a local and regional perspective." (Guidelines § 15125(a)). The existing traffic volumes included in the AFC and the Traffic Impact Analysis meet the standard under CEQA and Quail Brush does not agree that study results are substantially reduced due to an economic downturn. No further analysis is required for the CEC to render a decision.

SG25. Do you agree that the construction at the site will result in a substantial increase in traffic on residential streets in Santee? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. For the reasons stated in response to Data Request SG17 above, Quail Brush does not agree that construction at the site will result in a substantial increase in traffic on residential streets in Santee.

SG26. Do you agree that the construction of the natural gas pipeline that will cross Mast Blvd. will result in a substantial increase in traffic on residential streets in Santee? Quail Brush objects to the form of this data



request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. Quail Brush does not agree that construction of the natural gas pipeline that will cross Mast Boulevard will result in a substantial increase in traffic on residential streets in Santee. As stated in response to Data Requests SG17 and SG25, project construction is temporary and with mitigation is not anticipated to be a substantial impact. Construction of the entire natural gas pipeline is expected to take approximately 5 months and only a portion of this construction period will involve the construction of the pipeline under Mast Boulevard. (AFC 4.4-14). The Traffic Management Plan (as referenced in response to Data Request SG17 above) will developed to ensure minimal disruption to local area traffic during construction of the gas pipeline. (*Id.*). Additionally, traffic control for pipeline construction will be in accordance with Caltrans and the California MUTCD. (*Id.*). While temporary traffic control will be needed for the construction of the pipeline under Mast Boulevard, considering the short-term nature of the construction, it is not expected to have a significant impact on traffic and transportation. (*Id.*).

SG27. Why did the Applicant's Traffic and Transportation section fail to consider the delivery of the eleven engines and the tanks stated in 4.5.2.2 to the site and the ensuing snarls of traffic on Mast Blvd.? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. Quail Brush disagrees with the assertion that the Traffic and Transportation section of the AFC failed to consider the delivery of the eleven engines and tanks to the site and the potential impact on traffic. The delivery of the engines and the tanks are included in the construction schedule set forth in Table 4.4-7 of the AFC, specifically under "Genset delivery" (generation set delivery) and "BoP delivery" (balance of plant delivery). (AFC 4.4-10). The information in the construction schedule was used to calculate construction-related trips and the analysis in the Traffic and Transportation section.

SG29. How will emergency vehicles access Mast Blvd., HWY 52, or residential streets during construction snarls? Quail Brush objects to this data request because it does not seek information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). Quail Brush disagrees with the premise of this data request that the project will result in "construction snarls". As discussed in response to SG17 above, with mitigation, construction traffic will not significantly impact traffic in the vicinity of the project. Therefore, emergency vehicles will continue to access Mast Boulevard, HWY 52 and residential streets as they do under current conditions.

SG30. Is there an existing agreement or option to park workers at 7927 Mission Gorge Rd in the City of Santee; if so please provide a copy of such agreement or option? Quail Brush objects to this data request because it seeks information that is not relevant to the proceeding, that is not reasonably necessary for the CEC to render a decision, and that is not reasonably available to the applicant as required by Section 1716(b). Any agreement or related negotiations would be confidential and therefore not reasonably available for Quail Brush to provide.

SG31. If there is any agreement for construction parking at 7927 Mission Gorge Rd. or any other location, who represented the Applicant in any negotiations, considerations, or brokerage; and, who represented the land owners of any site for construction parking. For the reasons stated in response to Data Request SG30, Quail Brush objects to this data request.

SG32. On what date did any negotiations or contacts for construction parking begin and who represented the Applicant; and, who represented the land owners of any site for construction parking. For the reasons stated in response to Data Request SG30, Quail Brush objects to this data request.

SG33. Have any payments been made under the purported agreement for construction parking at 7927 Mission Gorge Rd or any other location; if so, state to who payment was made and on what date or dates. For the reasons stated in response to Data Request SG30, Quail Brush objects to this data request.

SG34. Do any purported agreements for construction parking at 7927 Mission Gorge Rd or any other location, give the property owner or owners the option to cancel the agreement; if so state what is the basis, reason or time when such agreement could be cancelled? For the reasons stated in response to Data Request SG30, Quail Brush objects to this data request.

## **VISUAL RESOURCES**

SG37. Do you admit that one any or all of the following comprise an impairment of the proposed projects visual resources:

- a. The 370 feet long, 70 feet wide and 32 feet high engine hall;
- b. The adjacent 2-story 92 feet long, 44 feet wide, and 32 feet high electrical, control, offices, and admin equipment building;
- c. 11 4 feet diameter by 100 feet high smoke stacks referred to as exhaust stacks;
- d. Multiple large tanks of water which will contain at least 6500 gal. of water;
- e. Fuel, lubricating oils and other liquid storage tanks.
- f. The facility switch yard
- g. The 1.5 mile long transmission line, 70 feet high;
- h. The utility switch yard at SDG&E connect point.

Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. All project components were analyzed in Section 4.5 of the AFC (see Table 4.5-2 for project components, Section 4.5.2.3 for visual impacts, and Table 4.5-3 for a summary of expected visual change). As discussed in the AFC, the project, including all of its components, will not result in any significant visual impact, with mitigation incorporated. (AFC 4.5-13 to 4.5-21)

## **Socio-Economic**

SG39. Why was 1999 selected for data in the Socio-Economic Justice category? Quail Brush objects to this data request because it does not seek new information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). All data used in the AFC was the most current at the time of writing. The most recent data available for income and poverty at the Census Tract level is from the 2000 Census (collected in 1999). Data for income and poverty by census tract were not available from the 2010 Census at that time, as explained on page 4.6-22 of the AFC. All other data used in the Environmental Justice analysis in the AFC application are from the 2010 Census, where available, or the 2005-2009 American Community Survey (again, the most recent available).

SG41. Will the Applicant agree that the loss of more than 50% of real estate value is proof of a depressed Census Tract that is a basis for Socio-Economic justice? If not, what % of loss of property value would the Applicant agree is proof of a Census Tract entitled to Socio-Economic Justice? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. The Environmental Justice analysis presented in the AFC addresses the potential for the project to disproportionately affect minority and low income populations (see Section 4.6.4 of the AFC). In accordance with USEPA and CEQ Guidelines, this analysis uses Census data on race and ethnicity, income, and poverty to

assess potential environmental justice concerns (see Section 4.6.4.2 of the AFC). Under the USEPA environmental justice guidelines, loss of property value is not a factor in determining the existence of an environmental justice community.

SG43. Will the Applicant agree that a percentage of population below the Poverty Level of 7.8% or greater in a Census Tract is a valid basis for a presumption of the need for economic justice? If not, at what percent would the Applicant agree to a Census Tract having the basis for economic justice? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position. Quail Brush does not agree with the assertion that a percentage of population below the Poverty Level of 7.8 percent or greater in a census tract is a valid basis for a presumption of the existence of an environmental justice issue. As stated in the AFC, the “U.S. Census Bureau defines poverty area as a census tract or other area where at least 20 percent of the residents are below the poverty level. (U.S. Census Bureau 2011d).” (AFC 4.6-22). The basis and purpose of the Environmental Justice analysis is explained in Section 4.6.4 of the AFC.

SG44. Does the Applicant agree that Census Tract 95.04 in which the project is proposed, has Median Household Income (MHI) that is skewed by wealthy absentee owners with whom the Applicant proposes to further enrich? If not, what does the Applicant base the MHI upon in Census Tract 95.04? Quail Brush objects to the form of this data request, which does not seek information that is relevant or reasonably necessary to make a decision, as contemplated by Section 1716 and instead challenges the Applicant to take a factual position.

#### **OTHER AREAS**

Quail Brush objects to these data requests because they do not seek information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). SGHOA provides no background section for these data requests and provides no rationale for how these data requests are related to the proceeding or are reasonably necessary.

SG45. Please explain the disparity between the assertion in 2.3.14 at page 2-22 of the Application that: “All of the plant’s capacity will be sold to SDG&E under the terms of the PPA between the Applicant and SDG&E. “ And the Assertion that the proposed plant is a “Peaker Plant”, particularly since if all the capacity of the plant is controlled by SDG&E the Applicant has no basis to represent to the public that it is a Peaker Plant. Quail Brush objects to this data request as it does not seek any new information that is relevant to the proceeding or that is reasonably necessary for the CEC to render a decision as required by Section 1716(b). Quail Brush believes that a reading of the entire Section 2.3.14 clearly states that Quail Brush has agreed to sell all the power generated at the facility, for up to 3,800 hours per year, to SDG&E under the terms of the PPA. In this context, the 3,800 would be the capacity. The statement is made to inform the CEC that no power generated by the project will be sold to any other entity. There is nothing in this statement or any other statement that conflicts with characterizing the project as a peaker plant.

SG46. Who proposed that all the capacity of the plant be sold to SDG&E and when? Consistent with the general objection above, Quail Brush objects to this data request.

SG47. Please provide a copy of the Power Purchase Tolling Agreement with SDG&E. Consistent with the general objection above, Quail Brush objects to this data request. Additionally, this agreement is confidential and therefore not reasonably available for Quail Brush to provide.

SG49. What relationship, if any, is Applicant to Goldman Sachs? Consistent with the general objection above, Quail Brush objects to this data request.

SG50. Are the Employees of Applicant bound by the Business Principles and Business Standards of Goldman Sachs? Are contractors like the Project Manager bound by the Business Principles and Business Standards of Goldman Sachs? Consistent with the general objection above, Quail Brush objects to this data request.

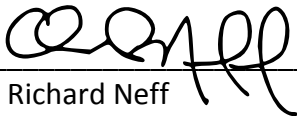
SG51. Did anyone on the List of Preparers Table 5-1 work with, supervise or otherwise assist in any way Arthur T. Willden or James Willden prior to their pleas of guilty, or involved in any way in the services to AvalonBay Communities or San Jose Water Conservation Co. prior to 2009? Consistent with the general objection above, Quail Brush objects to this data request.

SG52. Did anyone on the List of Preparers Table 5-1 work with, supervise, appear as a witness, get interviewed by any legal counsel or otherwise assist in any way anyone at Tetra Tech or themselves involved with Lowe's Home Centers v. Tetra Tech Inc. et al No. 10-00067 in the U.S. District Court for the District of New Hampshire? Consistent with the general objection above, Quail Brush objects to this data request.

Quail Brush will respond to the remainder of Intervenor Sunset Greens HOA's Data Requests, SG1 through SG52, on June 12, 2012.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge

Regards,



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C. Richard Neff  
Vice President



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 *QUAIL BRUSH GENERATION PROJECT***

DOCKET NO. 11-AFC-03  
PROOF OF SERVICE  
(Revised 5/14/2012)

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**INTERESTED AGENCIES**

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## DECLARATION OF SERVICE

I, Constance Farmer, declare that on June 1, 2012, I served and filed a copy of the Quail Brush Generation Project (11-AFC-03) Initial Response to Sunset Greens Intervenor Data Requests, 1 through 52. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at:

[\[http://www.energy.ca.gov/sitingcases/quailbrush/index.html\]](http://www.energy.ca.gov/sitingcases/quailbrush/index.html).

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

**AND**

**For filing with the Docket Unit at the Energy Commission:**

- by sending an electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**

Attn: Docket No. 11-AFC-3

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512 [docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:**

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission

Michael J. Levy, Chief Counsel

1516 Ninth Street MS-14

Sacramento, CA 95814

[mlevy@energy.state.ca.us](mailto:mlevy@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, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

*Constance C. Farmer*

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