

Greenaction for Health and Environmental Justice
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June 22, 2009

To: California Energy Commission
RE: Avenal Energy Project, Docket No. 08-AFC-1

DOCKET	
08-AFC-1	
DATE	June 22 2009
RECD.	June 22 2009

Via email to publicadviser@energy.state.ca.us and docket@energy.state.ca.us
COMMENTS ON THE PROPOSED AVENAL ENERGY PROJECT

On behalf of our hundreds of constituents in Avenal and Kettleman City who would be directly harmed by the proposed Avenal Energy power plant, we object to the inadequate notice and so-called “public workshop” scheduled for June 23, 2009 and the hearing on July 7, 2009. We also vigorously object to the defective analysis of the potential impacts of the proposed 600-megawatt fossil fuel power plant on the health, environment and economy of the residents and region.

The following topic areas have not been addressed or evaluated by the California Energy Commission and therefore further study and analysis is required before there is an evidentiary hearing on them:

Failure to Provide Full Notice and Timing of Workshop and Hearing is Improper and Discriminatory:

Due to the time of day and failure to provide true notice to the public, it appears that the CEC truly does not want the public to attend either the June 23rd “public workshop” or the hearing on July 7, 2009, and your process is on its face one of environmental injustice and racism.

The California Energy Commission (CEC) failed to provide notice to the residents of Avenal and Kettleman City who would be directly impacted by this giant, pollution power plant if it is built. Not only were no residents informed by the CEC of the workshop and hearing, but also the limited notice you published was in English only. A notice in English for a power plant proposed in Spanish-speaking communities is inadequate and has a discriminatory and disproportionate impact on the low-income and people of color residents who would be most affected.

Holding so-called public workshops and hearings in the middle of the workday has the effect of prohibiting any one who works during the day – most people – from participating in a decision on a project that can cost them their health. The timing of the workshop and hearing thus has a discriminatory, disproportionate and harmful impact on the residents most affected by the proposed project.

The CEC's failure to provide notice to residents or to schedule the workshop and hearing at a time and place designed to allow residents to participate is unacceptable and a violation of your obligation to comply with environmental justice mandates.

Sending out emails to a few entities that are familiar with the complex CEC process and a press advisory a few days before the June 23rd workshop does not constitute adequate notice.

We call on the CEC to reschedule this workshop and hearing, and provide adequate and meaningful notice – including bilingual notice - and set the workshop at a time that most people can attend.

Failure to translate permit documents into Spanish is discriminatory and improper:

The CEC should be well aware that at least significant parts of environmental review documents should be translated into Spanish due to the large number of monolingual Spanish-speaking residents in Avenal and Kettleman City, the communities closest to the proposed project.

In 1991, the Superior Court of California ruled in *El Pueblo Para El Aire y Agua Limpio vs. Kings County Board of Supervisors* that the county erred by failing to translate at least some of the environmental review document into Spanish due to the large number of Spanish-speaking residents. The Superior Court invalidated the Environmental Impact Report for the project that was the subject of that lawsuit, a proposed hazardous waste incinerator. The CEC is similarly improperly attempting to approve a giant polluting project without the required translation, and we allege that the CEC's English-only process and documents fails to meet the requirements of the law.

The CEC must translate permit documents into Spanish.

The July 7, 2009 Evidentiary Hearing Between the Parties is Improper and Premature:

The CEC set the date, time and place of the July 7th Evidentiary Hearing Between the Parties prior to the parties being finalized and before some of the parties even became parties. The CEC should have waited for their own deadline for entities to intervene as parties before setting a hearing date for the parties.

The July 7th hearing date needs to be rescheduled.

The Proposed Power Plant Threatens the Water Supply of Kings County Communities and Agriculture, threatening Health, the Environment and the Economy:

The proposed power plant would require massive amounts of scarce water, threatening the water supply that is already limited for agriculture and public use, threatening the health, environment and economy of Kings County and the San Joaquin Valley.

The CEC's analysis fails to guarantee that the prospective sources of water for the proposed power plant would not deplete water supplies available for agriculture or public use.

Agriculture in the region is already suffering from limited water supplies. Further use of massive amounts of water for non-agricultural uses could have a devastating impact on the economy, threatening the livelihood of growers, the jobs of farmworkers and the food supply for the general population.

The Proposed Power Plant Would Add Huge Air Pollution to a Polluted Air Basin, Threatening Public Health:

Avenal and surrounding communities already suffer from terrible air quality. Residents in Kings County and the Valley suffer high rates of asthma due to the poor air quality. The Avenal Energy Project, if built, would be possibly the second largest air pollution source in the entire southern San Joaquin Valley, contributing a wide range of air pollutants into an already heavily polluted air basin. The addition of such a large amount of pollutants would have a severe detrimental impact on air quality, public health and the environment.

This pollution would have a discriminatory, disproportionate and harmful impact on the low-income and people of color residents of the communities closest to the proposed project site.

The CEC Must Consider the Health Emergency Currently Existing In Kings County as Part of its Evaluation of Potential Health and Environmental Impacts:

The CEC's conclusion that the proposed power plant can be operated safely fails to consider the Health Emergency that exists today in Kings County.

In the last few months, a large cluster of infants who have birth defects, including three who have died, has been discovered and confirmed. Of five infants born in Kettleman City in a little more than one year, not far from the proposed power plant site, three have died and at least four were born with birth defects. The birth defects include cleft palate and brain defects. These five children represent approximately 30% of children born in the time period – a huge and horrifying percentage.

Government agencies are soon to begin looking into this huge cluster of birth defects and infants who have died. The addition of any major new pollution sources into an area with a major health disaster is reckless and unacceptable.

The CEC Must Consider the Cumulative Impacts of the Many Pollution Sources That Put Residents at Risk before Deciding if the Proposed Power Plant is Safe:

The CEC's assessment that the proposed power plant can be operated safely is without a basis in fact, as the assessment failed to consider the health situation in nearby communities or the region and failed to evaluate the cumulative impacts of the proposed plant in combination with the numerous and large pollution sources. Unless and until all the cumulative impacts are evaluated, there is no real analysis of true potential impacts.

Therefore, the CEC must consider all of the following in a risk analysis:

- 1) The existing terrible air quality in Kings County and the San Joaquin Valley;
- 2) The high rates of asthma in the Valley;
- 3) The cluster of birth defects and dead infants in Kettleman City;
- 4) The pollution from thousands of diesel trucks traveling daily on the Interstate 5 and local roads that contribute to the risk of cancer and asthma;
- 5) Widespread pesticide use;
- 6) Emissions from the Avenal Regional Landfill;
- 7) Emissions from the Chemical Waste Management hazardous waste, PCB and solid waste landfill facility in Kettleman City;
- 8) Emissions from the proposed dumping of sewage sludge on agricultural fields near Kettleman City

Submitted by,

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