

DOCKET	
09-AFC-3	
DATE	JAN 25 2011
RECD.	JAN 25 2011

Jass Singh
 291 N. Altadena Street
 Mountain House, CA 95391
 408.828.1788

State of California
 State Energy Resources Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-03
)	
Mariposa Energy Project)	Pre-hearing Conference Statement
)	Jass Singh
)	
)	

The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic are as follows:-

Environmental Justice for Racial Minorities: Staff and Applicant has provided environmental injustice and environmental discrimination for racial minorities which is breach of Federal California laws, guidelines & policies

Federal laws, guidelines & policies:

- EPA's 1998 EJ Guidance (provides details and guidance for implementing the federal EJ program)
- Executive Order #12898 of 1994 (established the federal EJ program)
- US Constitution (equal protection) Title VI of the 1964 Civil Rights Act

CA laws, guidelines & policies:

- Government Code Section 65040.12 (defines EJ and designates the Office of Planning and Research (OPR) as coordinator for state EJ program)
- Government Code Section 65040.2 (requires the OPR to develop EJ guidelines for local General Plans)

Mitigation to Alameda County: Alameda County MEP Cooperation Agreement, Exhibit 404 of Robert Sarvey.

Foreign Companies Investment

Wind Mill Energy Production: Alternate Energy Methods, AB 32.

Air Quality: The project's mitigation measures do not reduce the impact of criteria air pollutants and precursors to residents in the San Joaquin Valley. Ammonia emissions must be mitigated. The project does not comply with requirements for Best Available Control Technology for Particulate Matter Emissions or NOx or Greenhouse Gases. The Greenhouse Gas analysis that has been conducted does not comply with the "*Committee Guidance on Fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts in Power Plant Siting Applications*" and does not comply with current Federal Guidance on mitigating Greenhouse Gas emissions.

Public Health: Neither Staff or applicant have provided a public health assessment of the projects particulate matter impacts on human health.

Land Use: The project does not comply with the East County Area Plan. The project does not comply with the Williamson Act contract on the property. The project does not meet the requirements for a conditional use permit. The project does not mitigate the impact to agricultural resources.

Alternatives: There are feasible and cost effective alternatives to the project which will eliminate the projects significant impacts. The project represents overprocurement by PG&E and impacts the States ability to meet its RPS and GHG goals. There are technology alternatives that reduce the projects impact to the environment.

Worker Safety and Fire Protection: There are cost effective and feasible mitigation measures to reduce the projects potential safety issues to a level of insignificance. The project is located in the extreme remote section of both the Alameda County Fire and Tracy Rural Fire service areas. Both departments are under funded and current fees are not supporting the expanded responsibilities for these department. The MEP should be required to provide mitigation measures to reduce its impacts to a level of insignificance.

Hazardous Materials: The project proposes to connect to PG&E Line 002 which has significant corrosion issues and does not meet current requirements for Natural Gas Line Safety.

Environmental Justice: The Mountain House community is a minority community that is being exposed to the combined impacts of the MEP and the East Altamont Energy Center. Despite this the Mountain House Community is being asked to provide emergency services through its funding of the Tracy Rural Fire Department. The air emissions from the MEP and the EAEC impact Mountain House but mitigation for air emissions is inadequate and no public health assessment of the projects PM 2.5 impacts has been conducted.

Socioeconomics: The project is not needed for reliability but is being proposed to run approximately 600 – 1400 hours and the cost of the project is above market and provides a significant impact to ratepayers. The applicant has not met the burden of proof that the project is need for reliability.

Traffic and Transportation: The project does not meet all LORS. The project impacts the Byron Airport and the Byron airport Land Use Commission has certified it does not meet its LORS.

The identity of each witness sponsored by each party (*note:* witnesses must have professional expertise in the discipline of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; the

time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;

Dick Schneider : Land Use Co-Author of Measure D. Mr. Schneider will provide testimony on the intent of the citizens who voted for the Measure D which established many policies in the ECAP. Direct testimony should require (30 minutes.)

Bill Powers PE: Alternatives Mr. Power is a professional engineer who has participated in many sitting cases at the CEC including the East Altamont Energy Center, the Tesla Power Project, Chula Vista and many others. Mr. Powers will present reasonable and cost effective alternatives to the Mariposa Project. (1 Hour)

Robert Sarvey: Land Use, Alternatives, Socioeconomics, Air Quality, Water Resources, and Hazardous Materials, Worker Safety and Fire Protection. Mr. Sarvey has provided testimony before the California Energy Commission and the Public Utilities Commission on power projects and as a local resident has unique knowledge of the project area. Mr. Sarvey will provide testimony in Air Quality, Cumulative Air Quality Impacts, and Greenhouse Gas issues. In alternatives Mr. Sarvey will address the no project alternative, and technological alternatives to reduce the projects significant impacts. In Socioeconomics Mr. Sarvey will identify the significant impact to ratepayers that approval of the MEP will have. In worker Safety and Fire Protection Mr. Sarvey will provide testimony on the significant impacts to the Tracy and Alameda County Fire departments and provide conditions of Certification to mitigate the projects significant impacts. In hazardous materials Mr. Sarvey will describe the condition of PG&E Line-002 the natural gas line the project proposes to connect to.
(2 hours total for all topics)

Shawn Smallwood PHD. Biology: Doctor Smallwood is a professor at UC. Davis. He has performed avian mortality studies for the California Energy Commission in the Altamont Pass. His testimony will address the mitigation measures proposed by USFWS and their ability to mitigate the projects significant impacts to biological resources. (1 hour)

e) Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;

Topic	Witness	Issues	Time
Racial Minority	Staff Applicant Interveners	Environment Injustice and Minority Discrimination	2 hours
Mitigation to Alameda County	Staff Applicant Interveners	Discovery not provided. Minority Discrimination	2 hours
Wind Mill Energy Production	Staff Applicant Interveners	Alternate Energy Methods, AB 32	2 hours
Foreign Money Investment	Staff Applicant Interveners	Profit Realization in Foreign	1 hours
Mountain House	Staff	Fire department	1 hour

Resources consumed	Applicant Interveners		
Air Quality	Staff	Projects mitigation, impacts	45 Min
	BAAQMD	BACT, LORS Compliance	45 Min
	Applicant	Various	15 Min
	SJVAPCD	Mitigation Agreement	20 Min
Public Health	Staff	Particulate Matter Assessment	10 Min
Land Use	Staff	LORS Compliance	60 Min
	Alameda County	LORS Compliance	60 Min
	Applicant		20 Min
	Interveners		20 Min
Alternatives	Staff	No Project Alternative Technological Alternatives Site Alternatives	45 Min
	Applicant	Site Alternatives	15 Min
Worker Safety, Fire	Staff	Response Times, Impacts	30 Min
	Applicant		20 Min
Biology	Staff	Mitigation proposal	30 Min
	Applicant	Mitigation Proposal	10 Min
Traffic	Staff	Air Traffic	45 Min
	Applicant	Air Traffic	15 Min
	Interveners	Air Traffic	30 MIN
Hazardous Materials	Staff	Pipeline Issues	15 Min
Socioeconomics	Staff	Ratepayer Impacts	10 Min
	Interveners	Property Values	30 Min
Environmental Justice	Interveners	Demographics	10 Min

A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (as explained in the following section on Formats for Presenting Evidence);

Exhibit	Brief Description	Offered	Admitted
Exhibit 400	Robert Sarvey socioeconomics	1-10-11	
Exhibit 401	Biology Testimony of Shawn Samllwood	(will be submitted after issuance of BO)	
Exhibit 402	Land Use Testimony of Richard Schneider	1-10-11	
Exhibit 403	Air quality Testimony of Robert Sarvey	1-21-11	
Exhibit 404	Alameda County MEP Cooperation Agreement	1-21-11	
Exhibit 405	Hazardous Materials Testimony Robert Sarvey	1-21-11	
Exhibit 406	Alternatives Testimony of Bill Powers		
Exhibit 407	Worker Safety and fire Protection Testimony of Robert Sarvey	1-21-11	
Exhibit 408	Alternatives testimony of Robert Sarvey	1-21-11	

Exhibit 410	Compensation award in A. 09-09-021	1-21-11
Exhibit 411	Mulqueeny Ranch Pump Storage FERC	1-21-11
Exhibit 412	PSD Increment Consumption Status Report April 16, 2008 BAAQMD AQ	1-21-11
Exhibit 413	CPUC Proceeding PG&E Data Response Pages 0296, 297, 300 Socioeconomics	1-21-11
Exhibit 414	East County Area Plan Land Use	1-21-11
Exhibit 800	Discovery Document	1-10-11
Exhibit 801	Environmental Justice for Racial Minorities	1-21-11
Exhibit 803	Census track 5203	1-21-11

Topic areas for which the Applicant will seek a commission override due to public necessity and convenience pursuant to Pub. Res. Code § 25525.

Land Use
Alternatives
Socioeconomics

Proposals for briefing deadlines, impact of vacation schedules, and other scheduling matters

Propose the opening brief be due three weeks after receipt of the recorded transcript. Reply briefs two weeks after Opening Briefs.

For all topics, any proposed modifications to the proposed Conditions of Certification listed in the Supplemental Staff Assessment (SSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

Pls. docket this document.

Date: Jan 25, 2011

Jass Singh



Signature

X Proof of Service and Declaration of Service attached.

STATE OF CALIFORNIA

State Energy Resources

Conservation and Development Commission

In the Matter of: [DOCKET NUMBER 09-AFC-3]

[MARIPOSA ENERGY PROJECT] **DECLARATION OF SERVICE**

I, Jass Singh declare that on Jan-25-2011, I served and filed copies of this document dated Jan-25-2011. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent *Proof of Service* list (most recent version is located on the proceeding's web page at: <http://www.energy.ca.gov/sitingcases/mariposa/index.html>)

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

For service to the applicant and all other parties:

X sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, 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:

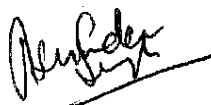
X sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

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

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. [09-AFC-03]
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct to best of my knowledge.


Jass Singh

Jan 25, 2011

EXHIBIT - 801

State of California
State Energy Resources Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-03
)	
Mariposa Energy Project)	
)	Jass Singh's Rebuttal Testimony
)	Environmental Justice for Racial Minorities

Environmental Justice for Racial Minorities of Mountain House

Federal laws, guidelines & policies:

- EPA's 1998 EJ Guidance (provides details and guidance for implementing the federal EJ program)
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Mountain House Community

Mariposa Energy LLC's proposed site is about 2.5 miles west of Mountain House Community. This is a new community facing tremendous economic challenges. Mountain House has been plagued with foreclosures and is epicenter of underwater mortgages. Mountain House master plan when fully implemented will have about 40,000 population. Today the community is at about 3000 to 3500 homes. However, majority of homes are facing foreclosure since 2008.

Mountain House community is a racial minority community with population distribution as follows:-

Census track 5203 for zip code 95391, where Mountain House falls within the zip code has human population distribution as follows:-

- Whites : - 36%
- Blacks – 8%
- Hispanic – 26%
- Asians – 24%
- Other groups – 6%

Sources:- <http://projects.nytimes.com/census/2010/explorer?view=raceethnicity&lat=40.6311&lng=-73.994&l=12>

Local data from the Census Bureau's American Community Survey, based on samples from 2005 to 2009.

It is very clear from the above census that Mountain House is a racial minority community with a population of 64% racial minorities comprising primarily of Blacks, Hispanic, Asians and other group.

Environment Injustice:

Mariposa Energy, LLC is taking advantage of this new yet to develop Mountain House Community where minorities are struggling in their foreclosures to keep their homes. Mariposa Energy, LLC and have denied my discovery/data request dated Jan 10, 2011. It clearly establishes that they are hiding the information.

Power Plant so close to troubled minority Mountain House Community is unjust and I request CEC and applicant for not creating environmental injustice, environmental discrimination for racial minorities and should not build power plant in the backyard of Mountain House community.

Pls. docket this document.

Date: Jan 21, 2011

Signature

X Proof of Service and Declaration of Service attached.

Exhibit – 800

Mr. Jass Singh
291 N. Altadena Street
Mountain House, CA 95391

Jan 10, 2011

Craig Hoffman
CEC Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Jass Singh Data Request – 1 Docket Number 09-AFC-03 from Mariposa Energy, LLC (Applicant)

Dear Mr. Hoffman:

1. Pursuant to Title 20, California Code of Regulations, Section 1716 and Pursuant to C.C.P. Section 2031.030, intervener requests inspection of the following DOCUMENTS (meaning all "writings" as defined by Evidence Code § 250 including, without limitation, all written, recorded or graphic matters, however produced or reproduced (whether on hard copy, printed matter, electronic media or the like), from which information can be obtained or translated through detection devices into reasonably usable form, in applicant's possession, custody or control, or are, with the exercise of due diligence, reasonable obtainable by applicant from others who possess for applicant's benefit and/or at applicant's request, regardless of where such items are located, including originals and copies thereof, and non-identical copies thereof) to all parties

- Data Request 1: Any community benefits or mitigation provided/given to or in consideration for any organizations, agencies, corporations, Not for Profit, individuals, parties, counties, cities or departments by Mariposa Energy Project (09-AFC-03) or Mariposa Energy, LLC (Applicant)
- Data Request 2: Cost of Mariposa Energy Project (09-AFC-03)
- Data Request 3: Job creation for San Joaquin County by Mariposa Energy Project (09-AFC-03)
- Data Request 4: Job creation for Alameda County by Mariposa Energy Project (09-AFC-03)
- Data Request 5: Yearly revenue generated by Mariposa Energy Project (09-AFC-03)
- Data Request 6: Projected/Expected Profits for 10 yrs Mariposa Energy Project (09-AFC-03)
- Data Request 7: Alameda County Sales Tax collection due to Mariposa Energy Project (09-AFC-03)

Date: Jan 10, 2011

Signature

X Proof of Service and Declaration of Service attached.

EXHIBIT - 803

