

DOCKETED

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Memorandum

Date: October 22, 2018
Telephone: (916) 653-8236

To: Commissioner Janea Scott, Presiding Member
Commissioner Karen Douglas, Associate Member
Hearing Officer, Ken Celli

From: **California Energy Commission** – John Heiser, Project Manager
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Subject: **Energy Commission Staff Comments on the Stanton Energy Reliability Center Presiding Member’s Proposed Decision**

The Committee assigned to the Stanton Energy Reliability Center (SERC or Stanton) Application for Certification published the Presiding Member’s Proposed Decision (PMPD) on October 5, 2018, and ordered parties to submit any comments by October 22, 2018. Staff respectfully submits the following comments. Recommended changes are shown using ~~strikeout~~ for deletions and **bold and underline** for new text.

PROJECT DESCRIPTION

1. Page 2-7, first line: remove “either” since only one gas line is currently being proposed.
2. Page 2-23, comment of Francisco Barajas should be corrected as follows:
“**Francisco Barajas of North Orange County Chamber of Commerce** said the SERC will greatly benefit the region while remaining consistent with applicable local land **uses**, which will bring jobs to the region and have an enormous positive impact.”

ALTERNATIVES

1. Page 3-1, first paragraph: The California Environmental Quality Act (CEQA) Guidelines and the Energy Commission’s regulations require an evaluation of the comparative merits of a reasonable range of alternatives to the Stanton Energy Resource **Reliability** Center (SERC) that achieve most of the basic objectives of the proposed project, but would avoid or substantially lessen potentially significant environmental impacts.

GREENHOUSE GAS (GHG) EMISSIONS

1. Page 6.1-3 Greenhouse Gas Table 1. The GHG construction emissions do not reflect updates from the Preliminary Staff Assessment (PSA) to the Final Staff Assessment (FSA). Please revise as follows.

Greenhouse Gas Table 1
Estimated Maximum Annual Construction Greenhouse Gas Emissions

SERC	MTCO ₂ e/yr
On-Site Construction Total	764
Off-Site Construction Total	<u>1,9412,019</u>
Total	<u>2,7052,783</u>

2. Page 6.1-4, first full paragraph. The project does not contain any auxiliary boiler. “The primary sources of GHGs during operation of the SERC will be the natural gas fired combustion turbines ~~and the auxiliary boiler.~~”
3. Page 6.1-11, third paragraph. The GHG construction emissions do not reflect the updates from the PSA to the FSA.

“2. The greenhouse gas emissions from the Stanton Energy Reliability Center’s construction are likely to be 2,7052,783 MTCO₂e during the approximate 14-month site preparation and construction period.”

AIR QUALITY

4. Page 6.2-9, Air Quality Table 4. The PM₁₀ and PM_{2.5} construction impacts do not reflect updates from the PSA to the FSA. Please revise as follows.

Air Quality Table 4
SERC Construction-Phase Maximum Impacts ($\mu\text{g}/\text{m}^3$)

Pollutant	Averaging Time	Modeled Impact	Background	Total	Limiting Standard	Percent of Standard
PM10	24 hour	27.4 <u>28.1</u>	85	112.4 <u>113.1</u>	50	225 <u>226</u>
	Annual	7.6 <u>7.8</u>	26.8	34.4 <u>34.6</u>	20	172 <u>173</u>
PM2.5	24 hour	3.9 <u>4.0</u>	34.4	38.3 <u>38.4</u>	35	109 <u>110</u>
	Annual	1.4 <u>1.17</u>	10.5	11.6 <u>11.67</u>	12	97
CO	1 hour	28.35	3,565	3593.35	23,000	16
	8 hour	13.7	2,444	2457.7	10,000	25
NO ₂	State 1 hour	29.4	141	170.4	339	50
	Annual	1.01	28.2	29.21	57	51
SO ₂	State 1 hour	0.07	23.0	23.07	655	4
	24 hour	0.01	3.7	3.71	105	4

Source: Ex. 300. 4.1-23.

- Page 6.2-28, eighth full paragraph. Priority reserve offsets are for certain qualifying facilities under SCAQMD Rule 1309.1. Stanton is not a qualifying facility. It is exempt from offset requirements under SCAQMD Rule 1304 and can use offsets from SCAQMD Offset Accounts for Federal NSR Equivalency.

“10. The South Coast Air Quality Management District determined that the Stanton Energy Reliability Center is exempt from providing emission offsets; however, the South Coast Air Quality Management District will provide offsets for the project from its internal priority reserve account **Offset Accounts for Federal NSR Equivalency.**”

BIOLOGICAL RESOURCES

- Page 7.1-3, second paragraph.

For clarification, staff recommends adding to this paragraph information included in the third paragraph, on page 4-12 of the FSA, regarding the species of birds found during surveys at the project site and the Southern California Edison (SCE) Barre Substation property.

“Due to the disturbed state of the project site and ongoing disturbance from surrounding industrial areas, the proposed Stanton site does not provide habitat capable of supporting a diverse assemblage of wildlife. The offsite linear facilities, worker parking area, and offsite staging areas are also in developed or disturbed areas. While ruderal habitats generally have lower value for wildlife many species found in grassland and cropland habitats may also occur in disturbed habitats (DWR and Reclamation 1996). Native species such as western fence lizard (*Sceloporus occidentalis*), Brewer’s blackbird (*Euphagus cyanocephalus*), lesser goldfinch (*Spinus psaltria*), and California ground squirrel (*Otospermophilus beecheyi*) may tolerate the conditions of ruderal

habitats; none of these species were observed during surveys **of the project site, however Brewer's blackbird was detected during surveys of the SCE Barre Substation property** (DWR and Reclamation 1996).⁹

2. Page 7.1-3, third paragraph.

Staff recommends the following edits to this paragraph to more accurately describe the bird species found by surveyors of the project site and the SCE Barre Substation property. The recommended additions identified below clarify that additional bird species were detected during surveys of the project site. The species listed in the PMPD were only those detected during surveys of the SCE Barre Substation property.

“Surveyors documented the presence of common bird species during surveys **within or adjacent to the proposed project site and/or the SCE Barre Substation property including the American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), barn swallow (*Hirundo rustica*), house finch (*Haemorhous mexicanus*), mourning dove (*Zenaida macroura*), northern mockingbird (*Mimus polyglottos*), Eurasian collared dove (*Streptopelia decaocto*), western kingbird (*Tyrannus verticalis*), killdeer (*Charadrius vociferus*), white-crowned sparrow (*Zonotrichia leucophrys*), rock pigeon (*Columba livia*)** common raven, barn swallow, house finch, mourning dove, northern mockingbird, white-crowned sparrow, rock pigeon, Brewer's blackbird (*Euphagus cyanocephalus*), song sparrow (*Zonotrichia leucophrys*), black phoebe (*Sayornis nigricans*), California towhee (*Meozone crissalis*), and house sparrow (*Passer domesticus*). The surveyors documented eight inactive nests **on the SCE Barre Substation property**. Seven inactive nests were located in the ornamental trees located along the west and south barriers of the SCE Barre Peaker Plant, which is east of the SERC site, and one inactive nest was located in a bougainvillea (*Bougainvillea spectabilis*) along the southern fence line. One red-tailed hawk (*Buteo jamaicensis*) was observed perching at the SCE Barre Substation and adjacent towers; however, no raptor nests were observed on any of the towers in or adjacent to the survey area.”

3. Page 7.1-9, third paragraph, fourth sentence.

Staff recommends the following edits to this sentence to reflect that surveys would be required in any year construction occurs. In addition, if there is more than a three-week period of construction inactivity, then a follow up survey would be required during the nesting season (February 15, and August 31).

“If initial site grading or vegetation removal were to occur during nesting season, then it could destroy bird nests including eggs or nestling birds. Condition of Certification **BIO-8** (Preconstruction Nest Surveys and Impacts Avoidance and Minimization Measures for Breeding Birds) requires a survey for birds in advance of any work conducted between February 15, and August 31, 2019, and establishment of a 500-foot, no-disturbance buffer if a nest is identified. (Ex. 300, p. 4.2-24.)”

4. Page 7.1-16, last paragraph, after third sentence.

Staff recommends a break in the paragraph and new subsection header to indicate the start of a new subsection of the Construction and Operation Impacts and Mitigation section. Recommended changes are shown below.

“Condition of Certification **BIO-7** requires BMPs from the project SWPPP to be implemented during all phases of the SERC to control storm-water runoff, which will result in less than significant impacts to biological resources from runoff.⁴¹ ~~Avian Collision and Electrocutation~~”

Avian Collision and Electrocutation”

5. Page 7.1-23

FINDINGS OF FACT No. 13. Staff recommends that this finding of fact be deleted as the new generator tie line would be constructed as an entirely underground transmission line. Therefore, impact minimization would not be required, as direct and indirect impacts to birds from collision with transmission structures are not expected.

~~“13. With the implementation of Condition of Certification **BIO-7**, transmission lines will be designed to reduce the risk of avian collisions and electrocutions.”~~

6. Appendix A 32-34

Staff recommends a grammatical clarification to the first sentence of the first paragraph of **BIO-5** to indicate that the compliance project manager (CPM) will consult on the contents of the Worker Environmental Awareness Program (WEAP) with California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS). Staff also recommends a clarification to the verification regarding to whom the project owner shall distribute copies of the WEAP based on the language already included in the 1st paragraph of the requirements of **BIO-5**. This was inadvertently left out of the language included in **BIO-5** in the Final Staff Assessment. This will provide clarification on the distribution of the WEAP to the other agencies and avoid potential confusion for the project owner. Recommended changes are as follows:

“BIO-5 The project owner shall develop and implement a project-specific Worker Environmental Awareness Program (WEAP) and shall secure approval for the WEAP from the CPM, in consultation with USFWS and CDFW. The WEAP shall be administered to all on site personnel including surveyors, construction engineers, employees, contractors, contractor’s employees, supervisors, inspectors, and subcontractors. The WEAP shall be implemented during site mobilization, ground disturbance, grading, construction, operation, and closure. The WEAP shall:

1. Be developed by or in consultation with the Designated Biologist and consist of an on-site or training center presentation in which supporting electronic media and written material is made available to all participants;

2. Discuss the locations and types of sensitive biological resources on the project site and adjacent areas, explain the reasons for protecting these resources, and the function of flagging in designating sensitive resources and authorized work areas;
3. Discuss federal and state laws afforded to protect the sensitive species and explain penalties for violation of applicable laws, ordinances, regulations, and standards (e.g., federal, and state endangered species acts);
4. Place special emphasis on the known and potentially occurring bird species protected by the Migratory Bird Treaty Act and California Fish and Game Code, including information on physical characteristics, distribution, behavior, ecology, sensitivity to human activities, legal protection and status, penalties for violations, reporting requirements, and protection measures;
5. Include a discussion of fire prevention measures to be implemented by workers during project activities; request workers to dispose of cigarettes and cigars appropriately and not leave them on the ground or buried;
6. Present the meaning of various temporary and permanent habitat protection measures;
7. Identify whom to contact if there are further comments and questions about the material discussed in the program; and
8. Include a training acknowledgment form to be signed by each worker indicating that they received the WEAP training and shall abide by the guidelines.

Verification: The specific WEAP shall be administered by a competent individual(s) acceptable to the Designated Biologist.-At least 45 days prior to the start of any pre-construction site mobilization, the project owner shall provide to the CPM, **CDFW, and USFWS** a copy of the draft WEAP and all supporting written materials and electronic media prepared or reviewed by the Designated Biologist and a resume of the person(s) administering the program. The CPM shall approve the WEAP materials prior to their use.

The project owner shall provide in the monthly compliance report the number of persons who have completed the training in the prior month and a running total of all persons who have completed the training to date. At least 10 days prior to site and related facilities mobilization, the project owner shall submit two copies of the CPM-approved final WEAP.

Training acknowledgement forms signed during construction shall be kept on file by the project owner for at least six months after the start of commercial operation. Workers

shall receive and be required to visibly display a hardhat sticker or certificate indicating that they have completed the required training.

Throughout the life of the project, the worker education program shall be repeated annually for permanent employees, and shall be routinely administered within one week of arrival to any new construction personnel, foremen, contractors, subcontractors, and other personnel potentially working within the project area. The project owner will provide documentation of the dates of annual training and number of participants who complete the training in the Annual Compliance Report. During project operation, signed statements for operational personnel shall be kept on file for six months following the termination of an individual's employment.

Training acknowledge forms shall be maintained by the project owner and shall be made available to the CPM upon request.

7. Appendix A 35

Staff recommends the following clarification to the verification of **BIO-6** to indicate that the CPM will consult on the contents of the BRMIMP with CDFW and USFWS as is already stated in the 1st paragraph of the requirements of **BIO-6**. This was inadvertently left out of the language included in **BIO-6** in the Final Staff Assessment. This will provide clarification on the distribution of the BRMIMP to the other agencies and avoid potential confusion for the project owner.

Verification: The project owner shall provide the BRMIMP to the CPM for review (in consultation with CDFW **and USFWS**) and approval at least 45 days prior to start of any preconstruction site mobilization”

8. Appendix A 39

Staff recommends the following clarification to the verification of **BIO-7** to indicate that many of the minimization measures also apply during operation and closure, as detailed in the existing **BIO-7** requirements, specifically Items #4 through 11.

Verification: All mitigation measures and their implementation methods shall be included in the BRMIMP and implemented. Implementation of the measures shall be reported in the monthly compliance reports by the Designated Biologist. Within 30 days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction termination report identifying how measures have been completed and which items are still outstanding. **During project operation, implementation of the measures shall be reported in the annual compliance report.**”

9. Appendix A 41

Staff recommends the following clarification to **BIO-8**, bullet 6 to provide consistency with the rest of the requirements in the condition regarding the distribution of survey documentation. This was inadvertently left out of the language included in Item #6 of **BIO-8** in the Final Staff Assessment. This will provide clarification on the distribution of

the survey reports to the other agencies and avoid potential confusion for the project owner.

“6. The Designated Biologist shall provide the CPM, **as well as USFWS** and CDFW, with field notes or other documentation within 24 hours of completing the surveys. An email report with a letter report to follow may be used. The email/letter report shall state how impacts of any nesting birds will be avoided by citing the appropriate information from this condition of certification. The letter report/email report shall include the time, date, methods, and duration of the surveys; identity and qualifications of the surveyor(s); and a list of species observed.”

CULTURAL RESOURCES

1. Page 7.3.1, second (single sentence) paragraph under Setting and Project Description.

The footnote (#3) to this paragraph cites page 4.3-11 of the FSA as the source of how the built-environment project area of analysis (PAA) was defined. Staff recommends the following edits to make the PMPD consistent with how the built-environment PAA was defined in the FSA (see 2nd paragraph, 2nd sentence, pg. 4.3-11, and the reference to Cultural Resources Figure 2).

“The built environment (architectural) PAA is defined as **the project site and** the area within a one-parcel radius around the proposed project site, ~~the northern and southern alternative natural gas pipelines, and the generator tie line.~~”

POWER PLANT EFFICIENCY

Staff recommends the following corrections.

1. Page 5.2-6: Delete the word “or” in Line 7 to read “The Stanton Energy Reliability Center will not consume energy in . . .”
2. Page 5.3.1: Correct numbered reference to read “1741(b)(3)”

3. FINDINGS OF FACT

Based on the evidence, we make the following findings:

7. The Stanton Energy Reliability Center will not ~~or~~ consume energy in a wasteful or inefficient manner.

POWER PLANT RELIABILITY

1. Page 5.3.1
 - 1 Pub. Res. Code § 25520(b); Cal. Code Regs, tit. 20, §§ 1741(b)(3); 1745.5(b)(15).
 - 2 8/2/18 RT pp. 29:20 – 30:14.

3 Ex. 300, p. 5.4-8.

4 Pub. Res. Code § 25520(b); Cal. Code Regs, tit. 20, §§ 17414741(b)(3); 1745.5(b)(15).

5 Ex. 300, p. 5.4-1.

PUBLIC HEALTH

1. Page 6.3-5. This risk level is equivalent to a cancer risk of 10 in one million, or ~~10x10⁻⁶~~ to 10x10⁻⁶.

SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE

Staff recommends the following edits to avoid narrowly limiting the findings of fact and conclusions of law regarding environmental justice to the technical area of Socioeconomics. In the FSA, staff analyzed project impacts to the environmental justice population in the 12 technical areas of Air Quality, Cultural Resources, Hazardous Materials Management, Land Use, Noise and Vibration, Public Health, Socioeconomics, Soil and Water Resources, Traffic and Transportation, Transmission Line Safety and Nuisance, Visual Resources, and Waste Management. In the Environmental Justice section of the FSA, staff concluded that construction and operation of the Stanton Reliability Energy Center would not cause significant direct, indirect, or cumulative environmental justice impacts with the inclusion of proposed conditions of certification. Staff also concluded that project impacts would not disproportionately affect the environmental justice population.

Page 8.3-19

FINDINGS OF FACT

Based on the evidence, we make the following findings:

3. The Stanton Energy Reliability Center will not cause disproportionate significant ~~socioeconomic~~ impacts to any population in the project vicinity.

Page 8.3-20

CONCLUSIONS OF LAW

1. The record contains an adequate analysis of potential ~~socioeconomic~~ effects in accordance with federal and state guidelines on environmental justice, and establishes that the project will not create any disproportionate adverse effects on minority or low-income populations.

SOIL AND WATER RESOURCES

1. Page 7.2-10 Second paragraph, 11th line: “The evidence indicates that since the water...” should be re-written as “The evidence indicates that since water use...”.

2. Page 7.2-18 Finding of Fact 9: “Condition” should be “Conditions” and the word “stormwater” after SOIL&WATER-2 should be deleted.
3. Page 7.2-19 Finding of Fact 12: The word “generation” should be “generated”.
4. Page 7.2-20 Conclusion of Law 2: “Appendix A” should be **bolded**.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

1. Page 7.4-3, 4th line up from the bottom: “Quaternary-aged alluvium is encountered at the depth of 51.5 feet below...” is incorrect. The text should be modified to “Quaternary-aged alluvium is encountered to a depth of 51.5 feet below...”
2. Page 7.4-12, Table 1: The row division label for “Local” is isolated at the bottom of the page. Ensure that the row heading label is not separated from the cells following it.

TRAFFIC AND TRANSPORTATION

1. Page 8.2-1. Second sentence in the first paragraph.

“It analyzes (1) the roads and routings routes that are proposed to be used for construction and operation...”

2. Page 8.2-4. Item 1.

“1. Cause a substantial increase in traffic in relation to the existing traffic load and capacity of the street system (i.e., increase a road segment’s volume-to-capacity (V/C) by 0.10 or more, result in a substantial increase in either the number of vehicle trips or congestion at intersections);”

3. Page 8.2-4. Item 2.

“Conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation, including mass transit and non-motorized travel and relevant components of the circulation system, including intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit infrastructure.”

4. Page 8.2-4. Item 8.

“Produce a thermal plume exceeding the 10.6 meters per second peak velocity threshold ~~at altitudes up to 450 feet above ground level~~ or generate glare in an area where air traffic flight paths are expected to occur; or...”

Explanation: As discussed in the FSA, staff determined that the peak velocity of SERC’s thermal plume could exceed 10.6 meters per second at altitudes up to 450 feet above ground level (AGL); however, 450 feet AGL is not a threshold for impacts in this case.

The reason is that aircraft in the area rarely fly at altitudes this low over the project site, and the chance of a low-altitude overflight coinciding with operation of the plant during worst-case plume-generating conditions would be extremely low. The threshold should be stated more generally as the project producing a thermal plume or generating glare in an area where air traffic flight paths are expected to occur.

5. Page 8.2-13. Second paragraph, fourth sentence.

“Staff testified that during peak construction, this road segment’s volume to capacity ratio (V/C) would increase by approximately 0.0017 over existing conditions, which is below the **Orange County Transportation Authority’s (OCTA’s)** 0.10 threshold for impacts.”

6. Page 8.2-25. First row, third column, second paragraph, third sentence.

“Because this road segment is already operating at LOS E, **and** because project construction traffic would not degrade the LOS below E, this impact is not significant, and staff does not consider the LOS E conditions of this road segment during peak construction to be inconsistent with the city of Westminster’s LORS.”

7. Page 8.2-26. Item 13.

“The Los Alamitos Army Airfield and the Fullerton Municipal Airport are located approximately 2.9 miles south ~~west~~**east** and 4.5 miles north of the Stanton Energy Reliability Center site, respectively.”

8. Page 8.2-26. Item 15.

“Condition of Certification TRANS-~~8~~**7** requires the project owner to consult with the Federal Aviation Administration to ensure that a Notice to Airmen is provided to pilots to avoid flying over the Stanton Energy Reliability Center site.”

9. Page 8.2-27. Item 17.

“Condition of Certification TRANS-7 requires marking and/or lighting ~~for~~ **of** any construction equipment used for Stanton Energy Reliability Center that is 153 feet above ground or taller, **if required by the FAA.**”

WASTE MANAGEMENT

1. Page 6.6-1. The second paragraph first sentence states “3.978acres”. There should be a space between 3.978 and acres.

WORKER SAFETY AND FIRE PROTECTION

1. Page 6.4-5 - The fire protection system will have fire detection sensors and monitoring equipment that will trigger alarms and automatically actuate the suppression systems. These systems are standard requirements by the NFPA and the ~~Uniform~~ **California** Fire Code, and Staff testified that they will ensure adequate fire protection.

DATED: October 22, 2018

Respectfully submitted,

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