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DEPARTMENT OF PLANNING AND LAND USE

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September 28, 1999

Eileen Allen
Energy Commission Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, California 95814-5512

DOCKET	
99-AFC-5	
DATE:	SEP 28 1999
RECD.	OCT 13 1999

RE: OTAY MESA GENERATING PLANT – APPLICATION FOR CERTIFICATION (99-AFC-5)

Dear Ms. Allen:

Thank you for the opportunity to review the Otay Mesa Generating Plant Application for Certification (99-AFC-5) and Supplemental Material for data adequacy. The County of San Diego Departments of Planning and Land Use, Public Works, and Environmental Health have reviewed this project as if it were a County Major Use Permit subject to the Multiple Species Conservation Plan (MSCP) and offer the following comments on "data adequacy" of this document.

DEPARTMENT OF PLANNING AND LAND USE

Cultural

1. The first paragraph of Section 5.7.2 refers to Appendix G as if it specifies what constitutes a significant effect. Appendix G currently is an environmental checklist form. The document should refer to Section 15064.5 of the Environmental Environmental Quality Act (CEQA), which defines what a significant effect to a historical resource would be.
2. The above referenced paragraph also states that a non-unique archaeological or paleontological resource need be given no further consideration. A non-unique archaeological resource can still be a significant historical resource. Paleontological resources should be addressed within the section of the application on paleontological resources.

- 3 On Pages 5 7-56a-b, it appears that mitigation measures CULT-2 through CULT-6 have been repeated unnecessarily
- 4 On Pages 5 7-56a-b, there is a reference to "CEQA Section 106 " This appears to be a confusion of CEQA and Section 106 processes that may require a minor editorial change to clarify
- 5 In mitigation measure CULT-5, consider making the presence of a Native American monitor a requirement, not simply a recommendation
- 6 The discussion of cumulative impacts on Page 5 7-55 needs to be strengthened For example, there is a statement indicating that because project specific impacts will be less than significant, that cumulative impacts will also be less than significant The evaluation of cumulative impacts must include the proposed project as well as other projects within the general vicinity
- 7 On Page 5 7-62, the phrase "Local LORS" is not defined A brief definition of this acronym would be useful here
- 8 On Page 5 7-62, there is a list of Federal, State, and Local laws and policies that "have the potential to apply " A determination of data adequacy cannot be determined until this issue is clarified For example does this project need to comply with CEQA or National Environmental Protection Agency (NEPA)?
- 9 This application defers the determination of significance evaluation and mitigation It might seem reasonable to assume that all sites that might be impacted and have not been tested are significant, but this is deferral Sites that will be impacted need to be tested and their significance evaluated If this were an application for a Major Use Permit from the County, we could not defer testing and significance evaluation to some future date Much more attention needs to be paid to this issue The application says that significance evaluation and data recovery excavations will be undertaken in consultation with the California Energy Commission (CEC) prior to construction (e g page 5 7-57 last paragraph) This would appear to deny the public and other interested agencies the opportunity to comment on the adequacy of significance evaluation and mitigation until the project has been approved and such comments would be meaningless There may be no acceptable substitute to actually testing the sites that will be impacted and proposing data recovery programs that can become conditions of approval for those significant sites that will be impacted

Questions regarding the staff comments on the cultural section should be directed to Dr Glenn Russell at (858) 694-2981

Noise

- 1 The noise assessment correctly identifies applicable noise control regulations, including the property sound level limits of the County of San Diego Noise Ordinance. However, the methods of assessing the project's compliance with the Noise Ordinance limits appear to be incorrect.

The County of San Diego Noise Ordinance establishes property line sound level limits based on zone designation of the property where the noise is produced and the zone designation of adjacent properties. The noise assessment does not use the zone classifications given in the Noise Ordinance. Instead, the noise assessment specifies, "The area surrounding the project site, including the closest residences to the site are zoned "Mixed Industrial." The applicable noise limit for "Mixed Industrial" is 70 dB at all times (page 5 12-6) "

While the Specific Plan for East Otay Mesa designated the property under consideration and the adjacent to the project site properties for industrial and commercial uses, the project site and adjacent land uses are zoned S88. Although the S88 zone noise level would technically apply to this project, the County acknowledges that the S88 zone noise level is designed primarily for residential rather than commercial or industrial uses. If the County had jurisdiction over this project, we would recommend that the applicant apply for a Noise Variance that allows property line noise levels similar to those permitted in industrial and commercial zones. The remainder of this analysis has been done on the assumption that a Variance would be requested and issued.

Per the County of San Diego Noise Ordinance, the applicable property line sound level limit for industrial land uses ranges from $Leq(h)=70$ dB (anytime) for M50, and M54 zones to 75 dB (anytime) for M58 and all other industrial zones.

If we assume that industrial uses at the project site (as specified by the Specific Plan for Otay Mesa) correspond to the uses addressed by M50, M52, and M54 zone categories (industrial uses with the lowest allowable property line noise limit), we can further assume that the applicable property line sound level limit for the project site is $Leq(h)=70$ dB (anytime).

According to provisions of the Noise Ordinance, the sound level limit at a location on a boundary between two zoning districts is the arithmetic mean of the respective limits for the two districts. The properties adjacent to the project site are currently vacant. The Specific Plan for East Otay Mesa designated most of the adjacent properties for industrial uses. Therefore, it can be assumed that along the project boundaries with planned industrial uses the applicable property line sound level limit is equivalent to $Leq(h) = 70$ dB anytime.

Per the County of San Diego Noise Ordinance, the applicable property line sound level limit for commercial land uses ranges from $Leq(h)=55$ dB (7 a m to 10 p m) and 50 dB (10 p m to 7 a m) for C30 zone to $Leq(h)=60$ dB (7 a m to 10 p m) and 55 dB (10 p m to 7 a m) for other commercial zones. If we assume that commercial uses specified in the Specific Plan correspond to commercial zone categories other than C30 (most of commercial uses), we can further assume that the applicable property line sound level limit for the project boundary with planned commercial uses is $Leq(h) = 65$ dB $[(70+60)/2]$ between 7 a m and 10 p m and $Leq(h) = 62.5$ dB $[(70+55)/2]$ between 10 p m and 7 a m.

- 2 The noise assessment indicates, "The facility noise emissions were modeled using noise prediction software" (Page 5 12-8). The noise contours produced by this noise prediction software are shown on Figure 5 12 4. The noise assessment does not provide any technical information that identifies the noise emission levels for the proposed noise sources as well as the assumptions about sound propagation effects, topography and distance noise attenuation, etc. Because of this, staff is unable to verify the validity of the noise prediction estimates and noise contour location. Applicable technical information should be provided in technical appendices to the Application for Certification.
- 3 Section 5 12 3, Mitigation Measures, lists different noise mitigation measures. The noise assessment does not include any information that shows that these noise mitigation measures are actually needed and does not identify their noise attenuation effect. This information should be provided.

Please direct questions pertaining to staff comments on the noise section to Dr. Alex Segal at (858) 694-3729.

Biology

- 1 The project cites the County's "draft MSCP of 1996". The document should be updated to include reference to the "approved" MSCP of 1997. Minor changes to the document should be made so that the document is consistent with the approved MSCP and Biological Mitigation Ordinance (BMO) requirements.
- 2 Project Description. Please provide additional detail in regards to the "disturbance areas" depicted for Route 1. This should include clarification as to the use of the 45,000 square foot disturbance areas, how the areas will be accessed and identify any impacts associated with access to these sites. Other areas to be analyzed for impact analysis should include potential fire clearing and maintenance requirements for the generating plant and the offsite improvements. A disturbance area within Route 1 identified as 1-2 on figure 5 6-6 is located within a vernal pool area. The vernal pool area should be avoided.

- 3 Appendices should identify whether appropriate protocol surveys were completed in conformance with United States Fish and Wildlife Services guidelines
- 4 The project consists generally of three types of development a) the construction of the generation plant, b) the construction of offsite improvements including gas lines (identified as Routes 2A and 2B), water and wastewater lines (Routes 3 and 4), access roads (Route 5), and c) the construction/replacement of 230KV transmission lines (Route 1) This development will occur within two different segments of the County's Subarea Plan (South County Segment and Metro-Lakeside-Jamul) and the City of Chula Vista and the City of San Diego Within County jurisdiction, aspects of the project will impact land within several different MSCP designations These are as follows
 - 1) Minor Amendment Areas The majority of the project falls within this MSCP designation This would include most of the 460-acre Power Plant site and portions of the offsite improvements including all of the proposed natural gas supply line (Route 2A), potable water supply line (Route 3), and the access road (Route 5), and portions of the wastewater discharge line (Route 4) and disturbance areas along the existing 230KV line corridor (Route 1) The report should clearly identify the process that would conform to the MSCP Project maps should be updated to clearly identify which portions of the project the Minor Amendment Area process affects Projects within Minor Amendment Areas require conservation measures and mitigation in conformance with MSCP and the BMO Conformance Findings for the process require participation and concurrence of the County, the United States Fish and Wildlife Service and the California Department of Fish and Game It should be noted that if no discretionary permits are required from the County, the project will be required to obtain "take authorization" from the appropriate state or federal agency
 - 2) Minor Amendment Areas with Special Requirements This designation is particular to the East Otay Mesa Specific Plan which places a "G" Designator over portions of steep slopes and sensitive biological resource areas The following portions of the project will potentially be affected by this designation Eastern portions of the power plant site, the proposed 230 KV connection to the existing Miguel-Tijuana corridor, and portions of the wastewater discharge line The project should be evaluated against the East Otay Mesa Specific Plan "G" Designator requirements specific to sensitive biological resources and provide an analysis of how the project will conform to these requirements Project maps should be updated to clearly identify which portions of the project the "G" Designator process affects Projects within Minor Amendment Areas with special requirements require conservation measures and mitigation in

conformance with the MSCP and the BMO Conformance Findings for the MSCP and BMO should be required to obtain "take authorization" from the appropriate state or federal agency

- 3) **Major Amendment Areas** Several areas of the project are potentially affected by this designation including the alternate natural gas supply line (Route 2B), the wastewater discharge line (Route 4) specifically in the Johnson Canyon area, and the identified disturbance areas within the existing Miguel-Tijuana corridor. The report should clearly identify the process that the project will utilize to amend the County's MSCP and how the project will conform to this process. Project maps should be updated to clearly identify which portions of the project the Major Amendment Area process affects. This process requires not only the participation and concurrence of the County, the United States Fish and Wildlife Service and the California Department of Fish and Game, but also requires approval of an amendment to NEPA documentation prepared for the MSCP. Projects within Major Amendment Areas require conservation measures and mitigation in conformance with the MSCP and the BMO Conformance Findings for the MSCP and BMO should be included in the project documentation. It is recommended that impacts to these areas be avoided to the greatest extent feasible. It should be noted that if no discretionary permits are required from the County the project would be required to obtain "take authorization" from the appropriate state or federal agency.

- 4) **Areas Where No Take Will Be Authorized** There are several proposed disturbance areas identified in the existing Miguel-Tijuana corridor that fall into this category. These areas are either within the South County Segment of the MSCP or within areas annexed by the City of Chula Vista. These areas are proposed for open space as negotiated with the Resources Agencies prior to approval of the MSCP. It was anticipated that most new development would not be allowed within these areas unless identified within the segment plan. Since this project was not anticipated it has not been identified as an acceptable use within the open space area. If new development were required within this designation, the project would be required to amend the MSCP following the Major Amendment Process. Projects within Minor Amendment Areas require conservation measures and mitigation in conformance with MSCP and BMO should be included in the project documentation. It is recommended that the project be redesignated to avoid any impacts to these areas. It should be noted that if no discretionary permits are required from the County the project would be required to obtain "take authorization" from the appropriate state or federal agency.

- 5) **Take Authorized Areas** Several areas within the Otay Ranch Project were identified as take authorized areas in the South County Segment of the MSCP. However, a major portion of the Otay Ranch has been annexed to the City of Chula Vista. Figure 5 6-12 should be updated to reflect this change. A portion of Route 1 would be similarly affected and are no longer subject to County regulations nor are covered by the County's MSCP. Appropriate findings are required for these areas.
 - 6) **Metro-Lakeside-Jamul Segment** Several disturbance areas identified in the existing Miguel-Tijuana corridor adjacent to the Miguel Substation are within the Metro-Lakeside-Jamul Segment. Development within this entire segment is required to conform to the County of San Diego's BMO. The project document page 5 6-37 incorrectly identifies these areas as having an "undetermined development status". The Resource Agencies and the County of San Diego correctly identify these areas as pre-approved mitigation areas. The Subarea Plan does not restrict development it provides guidelines for appropriate mitigation. The BMO establishes the appropriate mitigation requirements for these areas. Projects within Metro-Lakeside-Jamul Segment require conservation measures and mitigation in conformance with the MSCP and the BMO. Conformance Findings for the MSCP and BMO should be included in the project documentation. It should be noted that if no discretionary permits are required from the County the project would be required to obtain "take authorization" from the appropriate state or federal agency.
- 5 The document page 5 6-33 indicates that there are no significant biological resources on the proposed plant site. The County does not concur with this conclusion. The dominant vegetative cover onsite is non-native grasslands, which are associated in this case with Diablo clay soils. Non-native grasslands provide valuable foraging and habitat areas for several sensitive birds and mammals. Additionally, since the project site has clay soils, several sensitive species of plants including Hemizonia conjugens and Acanthomintha ilicifolia could be present. Since no site-specific plant species list have been provided a factual determination of non-significance cannot be supported. Furthermore, the MSCP requires biological mitigation for all impacts to habitats ranked as Tier III or above. Therefore, by definition, the habitat should be considered as sensitive with impacts considered as significant.
- 6 The project should clearly identify the amount of each habitat (number of species) impacted by the proposed project and provide specific enforceable, and timely mitigation measures that are designed to avoid, reduce or replace the affected habitat (species). These mitigation measures should be in conformance with the County of San Diego's MSCP. Specific onsite or offsite mitigation areas should be identified at this time. Add a mitigation measure(s) on page 5 6-55.

that include the acquisition or dedication of easement areas for the protection of sensitive species. This measure should identify the type and amount of habitat (species) to be acquired (preserved), the timing of implementation and a funding mechanism for the ongoing monitoring and maintenance of the acquired habitat (species).

Questions regarding staff's comments on the biology section should be directed to Tracy Cline at (858) 495-5513

Land Use

- 1 It would be helpful if the maps in this section indicated the jurisdictional boundaries between the County of San Diego, the City of San Diego and the City of Chula Vista
- 2 The "Current Land Use Designation," map should be titled "Existing Land Uses "
- 3 The following comments pertain to Table 5 9-3
 - a It is indicated under "County of San Diego General Plan" that there are no areas of the project subject to the Estate Development Area regional category, however, portions of the corridor are located in this category
 - b Under Policy LU-1, there needs to be more reasons why the project is consistent with the mixed industrial uses provided for by the East Otay Mesa Specific Plan
- 4 Section 5 9 1 2 1 - "Existing and Proposed Land Uses," describes only existing uses and not the proposed uses as well
- 5 Section 5 9 1 2 2 - "Sensitive Uses," staff is uncertain over the definition of sensitive uses, however, we believe that the two prisons might be considered such uses because of the large resident inmate population
- 6 Section 5 9 1 2 3 - "Zoning," this section omits the Development Regulations and Special Area Regulations. It should also be noted that if this project were under jurisdiction of the County, a Major Use Permit would be required and specific findings would need to be made under Section 7358 of The County Zoning Ordinance
- 7 Section 5 9 1 8 - "Route 5, Access Road," a two-lane industrial/commercial local road is planned along the northerly boundary of the project site. The project will need to address this road because it may need to provide access to the parcel located to the east of the project site. The Circulation Element of the East Otay

Mesa Specific Plan is intended to ensure that the road network is developed in a coordinated and orderly manner

- 8 Section 5 9 2 2 3 - "Compatibility with Existing and Proposed Land Use," more detail should be provided on how the project will be compatible with the uses planned for the area
- 9 Section 5 9 2 2 4 - "Consistency with Land Use Plans, Policies and Regulations " The section also indicates that a height variance would be required from the County It has been our understanding that all of the permitting would be done through the CEC
- 10 Section 5 9 2 5 - "Access Road," this section indicates that the access road will be built in accordance with the East Otay Mesa Planning and Design Guidelines An explanation of how the road will accomplish this should provided
- 11 While this is not subject to any County discretionary process since this project will have a visual and physical presence, we would appreciate the opportunity to informally review a detailed plan on the physical layout of the project
- 12 Staff would like to see a general discussion about the potential for the project to affect the development on adjoining parcels

If there are any questions on staff comments on the land use section, please contact Bill Stocks at (858) 694-3913

DEPARTMENT OF PUBLIC WORKS*

Drainage

At this time we have no comment relative to on/offsite drainage aspects The applicant should be aware that there is a drainage master plan component to the East Otay Mesa Specific Plan that should be reviewed for consistency prior to completion of the application process

Wastewater Disposal

- 1 Presently, there are no sewer collection facilities in the area to serve the proposed site It is anticipated that property owners will be responsible for extending sewers from the City of San Diego (Metro) system to individual projects within East Otay Mesa Recently, a sewer district has been established and 1 0 million gallons (mgd) of Metro sewage capacity will be available to service developments in the area Capacity fees and annual sewer service

charges have yet to be determined, but are anticipated to be considered by the Board of Supervisors in the near future

- 2 Any sewer line that is routed through "Johnson Canyon," the likely alignment for the sewer that would serve the Otay Mesa Generating Project, should be sized to serve the planned build-out for the tributary basin. Reimbursement agreements can be arranged between the County and the party(s) who construct this sewer line for the incremental size increases required. Staff would appreciate receiving any preliminary information you may have developed regarding the size, location and cost for this sewer facility.

Questions regarding staff comments on drainage or wastewater disposal should be directed to George Ream at (858) 874-4099

Circulation

- 1 Per the County of San Diego's Centerline and Subdivision Ordinances, dedications of right-of-way should be provided for future widening along Alta Road. Alta Road is currently classified as a Prime Arterial on the County of San Diego's Circulation Element. A half width dedication of 61 feet from centerline should be provided.
- 2 Per the County of San Diego's Centerline and Subdivision Ordinances, the proposed project should bond for future half width improvements to Alta Road along the project's frontage. The front yard setback requirements of The County's Zoning Ordinance and building line setbacks of the Centerline Ordinance should be maintained. Safe and adequate site distance should be provided at the intersection of the proposed access road and Alta Road.
- 3 The location of the railroad-shipping depot nearest the project site should be identified. The impact of the transport of the heavy equipment to and from the project site on the service life of existing County-maintained roads should be identified. Compensation should be provided for any significant increases in the maintenance costs of these roads.
- 4 An Encroachment Permit from the County of San Diego will be required for any improvements that are made within the County right-of-way.

Please direct questions pertaining to the circulation section to Robert Goralka at (858) 694-3728

*Note Comments extracted from September 2, 1999, correspondence

DEPARTMENT OF ENVIRONMENTAL HEALTH

- 1 Section 5 15 2 2 (Operational Phase) lists several "Major" hazardous materials to be used onsite. Based on the actual quantities and concentration of the substances stored onsite, the facility will have to meet varying degrees of regulatory requirements as required by federal, state, and local laws, regulations and ordinances. If this were a local project, a building permit would be required. When a building permit is issued for a site, a HMD hazardous material questionnaire must be completed. A Hazardous Material Business Plan/Contingency Plan would be required before final occupancy for a site is granted. A County Health Permit would also be required for the proposed site.
- 2 Section 5 15 2 2 (Acutely Hazardous Materials) identifies several regulated hazardous substances (hydrogen, sulfuric acid, and cyclohexylamine) that may be subject to the California Accidental Release Prevention (CalARP) program. However, based on the quantities and concentrations presented in the Application for Certification these substances would be exempt from the CalARP program. If the actual quantities used at the site exceed designated threshold levels, the site would not be exempt from the CalARP for these chemicals.
- 3 The SCR system described would use quantities of aqueous ammonia in 19.5% concentration that would be subject to the CalARP program. Section(s) 5 15 2 2 3 etc (Offsite Consequences Analysis for SCR Alternative) asserts that there would be no offsite consequences in the event of a "worst-case" release. This assertion is dependent on a facility design that provides sufficient "passive" mitigation to prevent an offsite impact.

Concurrence with these assertions could not be made based on the information provided in the Application for Certification. The release from the liquid storage tanks was chosen as the worst-case scenario involving a tank failure and the release of the contents into a secondary containment, located inside of an enclosed space. The calculations of the release rate presented could not be verified as presented. Also, it is recommended that a worst-case release from a delivery truck on the outdoor pad also be considered. This would add the release of ammonia vapors while liquid flows over the sloped pad into the same enclosed containment area. The above-described factors may result in a release with offsite consequences. HMD cannot concur that this site would not have an offsite impact based on the information presented. Further evaluation can be made during a formal CalARP screening process. This process must be completed before aqueous ammonia is first brought to the facility.

Please contact Matthew Trainor at (619) 338-2372 for questions regarding staff comments on the environmental health section.

Eileen Allen

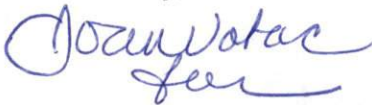
- 12 -

September 28, 1999

Again, thank you for the opportunity to comment on the data adequacy of this Application for Certification. The County of San Diego looks forward to participating in the 12-month data discovery and analysis phases. Our intent is to review the project as if it were a County Major Use Permit. Please provide us with the information necessary to complete our review.

If you have any questions regarding this correspondence, please contact the staff members noted above, or Stella Caldwell, East Otay Mesa Project Coordinator, at (858) 495-5375.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary L. Pryor".

GARY L. PRYOR, Director
Department of Planning and Land Use

GLP:SC:br

cc: John Snyder, Director, Department of Public Works, M.S. O332
Gary Erbeck, Director, Department of Environmental Health, M.S. D561

AUTHOR/APLTRSC2-0999