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CALIFORNIA ENERGY COMMISSION

In the Matter of: )
ALAMITOS ENERGY CENTER )
_______________________________)
Docket 13-AFC-01

STATUS CONFERENCE

CALIFORNIA ENERGY COMMISSION
ART ROSENFIELD HEARING ROOM
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 8, 2016
10:00 A.M.

Reported by
Peter Petty
APPEARANCES

HEARING OFFICER
Kenneth Celli

COMMISSIONERS
Karen Douglas, Presiding Member
Janea Scott, Associate Member

ADVISERS
Le-Quyen Nguyen, for Commissioner Douglas
Jennifer Nelson, for Commissioner Douglas
Rhetta Demesa, for Commissioner Scott

CEC STAFF
Kerry Willis, Staff Counsel
Keith Winstead, Project Manager
Chris Davis, Office Manager
Matt Layton, Eric Knight, Engineering

APPLICANT
Stephen O’Kane, AES Southland Development LLC
Jeff Harris, Esq., Ellison Schneider & Harris
Samantha Pottenger, Esq.
Jerry Salamy, CH2M Hill
APPEARANCES (cont'd)

PUBLIC AGENCIES

Bhaskar Chandan, South Coast Air Quality Management District

Vicky Lee, South Coast Air Quality Management District

Linda Tatum, City of Long Beach
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COMMISSIONER DOUGLAS: Good morning, everybody. This is a status conference conducted by the committee of the California Energy Commission regarding the Alamitos Energy Center.

The Energy Commission Chair has assigned a committee of two Commissioners to conduct these proceedings. Before we begin, we’d like to introduce the committee members to you.

I’m Karen Douglas, the presiding member of this committee, and Commissioner Janea Scott is the associate member.

To my left is our Hearing Officer, Ken Celli.

To my right, my adviser Le-Quyen Nguyen and my adviser Jennifer Nelson will probably be here any moment.

To Commissioner Scott’s left, Rhetta DeMesa, her adviser.

Kristy Chew, the technical adviser for siting for the Commission may appear in a couple of minutes.

So at this point let me ask the parties to introduce themselves and their representatives,
starting with the applicant.

    MR. O'KANE: Good morning, this is Stephen O’Kane with AES.

    MR. HARRIS: Good morning, Jeff Harris on behalf of the applicant. Also with us in the audience, Jerry Salamy of CH2M Hill on behalf of the applicant, and my colleague, Samantha Pottenger.

    COMMISSIONER DOUGLAS: Great, thank you.

    Staff.

    MR. WINSTEAD: Good morning. I’m Keith Winstead, I’m the staff project manager for the AES project of the Energy Commission. I have the assistant chief counsel with me, Kerry Willis, she’s filling in for Jared today on this project.

    I also have my office manager, Chris Davis, here available. Engineering Office managers Matt Layton and Eric Knight available also.

    COMMISSIONER DOUGLAS: Great, thank you.

    Intervener, Los Cerritos Wetlands Land Trust, Elizabeth Lambe, are you on the phone or WebEx?

    MS. TATUM: This is Linda Tatum from the City of Long Beach.

    COMMISSIONER DOUGLAS: Okay, great, thank you.
Anyone else from public agencies?

MR. CHANDAN: Yes, this is Bhaskar Chandan calling from South Coast Air Quality Management District, I’m the supervisor of the power group, and I have Vicky Lee, the permitting engineer on this project.

COMMISSIONER DOUGLAS: Great, thank you.

And could you spell your name for the court reporter?

MR. CHANDAN: Sure. B-h-a-s-k-a-r C-h-a-n-d-a-n.

COMMISSIONER DOUGLAS: Thank you very much, and thanks for being on the line.

Anyone else from public agencies? Public agencies, Native American tribes.

All right, at this time I will hand over the conduct of this hearing to Ken Celli.

HEARING OFFICER CELLI: Thank you, Commissioner Douglas.

Good morning, everybody. This status conference for the Alamitos Energy Center project was scheduled in a notice dated May 19th, 2016. The purpose of today’s conference is to inform the committee about any changes made to Alamitos Energy Center’s application for certification, which we
will refer to as an AFC throughout these proceedings, application for certification.

We’re also interested in the progress the parties are making on the project. Today we will try to help resolve any procedural issue that may exist as well as to assess how well the parties are keeping to the schedule.

The procedure that we will follow is that first we will hear from the applicant, followed by staff. We will be checking in from time to time to see if anyone from Los Cerritos Wetlands Land Trust calls in, but for the record nobody from the intervener is here today so far.

We will then provide an opportunity after we hear from all of the parties for the general public to comment on any aspect of the Alamitos Energy Center.

And at the conclusion of the public comment, and if necessary, the committee reserves the right to go into a close session if there’s any call for any deliberation of any sort today. We’re not aware of any yet.

At the conclusion of a closed session, then I would return to reopen the record just to adjourn the status conference. Otherwise, we will just
adjourn probably right after the public comment period.

So with that, I’m going to ask Mr. Jeff Harris what is the applicant’s eye view of the lay of the land for the Alamitos Energy Center project.

MR. HARRIS: Thank you. Appreciate being here. We have always appreciated the increased status conferences that the committees have agreed to hold. I think it’s very important.

Today’s event will probably be, not a non-event but not particularly eventful. I’ve used the word ‘event’ enough so I’ll stop.

So we appreciate you being here and having the opportunity to talk with you.

We understand that things are progressing well. The South Coast issues are coming to bear, and I’ll let others speak on that, but that, I think, shows some significant progress.

I’m pleased that there are so few issues that seem to be on the horizon. We’ve done a good job with our data requests and filling in the staff’s requests.

And we’re working very well with staff, and so I really appreciate their whole approach to this project.
I think this is a good project and a good location. It’s been relatively low profile, I think because there are very few issues. And schedule, schedule, schedule, that’s always what you hear from an applicant, and so you’re going to hear schedule, schedule, schedule from us all the time.

But I think what we’re going to be looking for is opportunities with the staff to basically compress some of the timeframes maybe moving forward. We will try to turn around our comments on the preliminary staff assessment as quickly as possible. We understand that that’s in pretty good shape, although I’ll let staff speak to that.

We will definitely put our effort into looking at the conditions. I think those are going to be the biggest issue for us and making sure that the conditions are properly drafted. Your standard conditions are generally pretty good.

We’re going to, at the bottom line level, be looking to move as fast as possible toward construction once we get your final approval.

So the filter, we’ll look at those conditions and be very much, you know, are we able to move forward.

And there’s some site preparation work to
removing the remaining components of former Unit 7 is where we’re going to want to start, so we’ll be looking at the conditions with an eye to making sure that once we have your approval and once it’s final and not appealable then we can actually get out there and start right away.

And that may require us to spend some time with staff even in advance of your final approval, maybe doing some filings, compliance filings beforehand to get them into staff’s hands, and we’re dedicated to doing that as well.

So a little frustration that we’re not farther along, but a lot of hope about our ability to make up some time going forward.

And I think with that, I’ll go ahead and take any questions.

HEARING OFFICER CELLI: Thank you. I just want to state for the record, and it seems that nobody new has called in so we still don’t have the intervener, but I have our original schedule which called for South Coast issuing a preliminary determination of compliance on April 20th, which of course is the trigger for staff’s PSA, which was going to be due nine days after that. A PSA workshop within a month, status conference, which we are
having, and so forth.

So we’re now looking at a good two-month slip in the calendar, so that’s where we stand schedule-wise today.

Let’s hear from staff. Mr. Winstead, please.

MR. WINSTEAD: Thank you. Staff continues to work with the applicant, South Coast Air Quality Management District, City of Long Beach, interveners and others as needed to meet the committee’s schedule.

I’d like to talk about air quality. Based on information from South Coast Air Quality Management District, staff now expects the draft preliminary determination of compliance for Alamitos Energy Center in approximately two weeks.

Received a courtesy copy on June 7, 2016. Staff continues to expeditiously complete work on air quality public health sections of the PSA.

We have asked the Sacramento Air Quality Management District to let us know if there is any changes to the published PDOC so we can correctly cite the District’s analysis.

HEARING OFFICER CELLI: Did you mean Sacramento or South Coast?
MR. WINSTEAD: South Coast Air Quality Management District.

HEARING OFFICER CELLI: Okay. Because you said Sacramento. It’s South Coast.

MR. WINSTEAD: Oh, South Coast, we need to get that clarified. Sacramento, yeah, we’re not doing that one. Okay.

Staff is also working on Puente, due to be filed Wednesday, June 15th. Huntington Beach is due three weeks from yesterday when the PDOC was issued. Some staff are working on the IEPR, all of which is due ahead of Alamitos.

We continue to have good communications with the applicant, Jerry Salamy from CH2M Hill and exchange information needed to complete their analysis.

Currently there are no outstanding data requests. Staff continues to work with the applicant to exchange information necessary to complete the PSA and to confirm and clarify data responses.

We also work with visual staff to address and respond to the City of Long Beach comments regarding landscaping and perimeter of the existing site, and two unused areas of the proposed AES site in the visual resources analysis.
Pretty much that summarizes where we’re at.

HEARING OFFICER CELLI: Let me just ask you because you mentioned you’d had contact and were working with, among others, the intervener. Has staff had contact from the intervener?

MR. WINSTEAD: There has been no contact with the interveners since the -- I’ve only had contact with Ms. Lambe early on in the project before this amendment came in for changes.

HEARING OFFICER CELLI: So sometime last year?

MR. WINSTEAD: Yeah, it’s been quite awhile. They haven’t been very active. We just wanted to make sure that we addressed their concerns early in the project, which we made sure we tried to address them, even though we didn’t publish that original PSA, those comments and concerns will move along in this document.

HEARING OFFICER CELLI: Very good. And just again for the record, there appears to be no change. Is there anyone from the Los Cerritos Wetlands Land Trust on the telephone? Please speak up if you are.

Okay, then, hearing none.

Well, simple as that. So I really appreciate the comments. I just want to say that
it’s heartening to hear that things are moving along.

I was going to ask staff, and I see that you have Chris Davis and some other people here in case you wanted to check, but how etched in stone -- in other words, I see that you have Puente coming up and you have Huntington Beach, and I understand that there’s a certain flow to the way things are going, but if the PDOC on Alamitos comes in earlier, where are they in terms of -- do we have PSAs coming out on Puente and Huntington Beach? So they’re way down the road compared to Alamitos at this time. Okay. So there’s not going to be any likelihood of things moving around right now to make room for a different project; do I have that right?

MR. WINSTEAD: That’s correct, yeah.

HEARING OFFICER CELLI: Thank you.

Anything further, Mr. Harris?

MR. HARRIS: Well, I guess once the PDOC is out and the PSA, we may at one of our next status conferences want to talk with you about schedule. You’ve done a masterful job with your schedule, so congratulations on that.

We may be looking for ways to maybe gain back some time in that schedule without compromising
public participation, so just ask you to be open to
the possibility that the project may be able to move
more quickly than some other projects that are more
torroverted.

We hope to do a whole lot of our
disciplines by stipulation, I guess by declaration,
take the testimony by declaration.

So assuming success and we’re only talking
about maybe one day of hearings to create a record,
I hope there’s some flexibility to do that
notwithstanding the rest of the workload the
Commission faces.

HEARING OFFICER CELLI: Okay, thank you.

And while we have Mr. Chandan and Ms. Lee
on the phone from South Coast, I wonder if South
Coast would care to comment and let us know how you
feel you’re doing on the schedule for the PDOC.

MR. CHANDAN: You want to answer?

MS. LEE: I think it was Keith Winstead
said he received a courtesy copy yesterday. And then
you said something about expecting a draft PDOC in
approximately two weeks; am I correct?

MR. WINSTEAD: Let me correct myself. We
have a draft PDOC now and we’re expecting a final in
a couple weeks. Thanks. The PDOC, in a couple weeks.
HEARING OFFICER CELLI: Did you get that, Ms. Lee?

MS. LEE: Yes, I got that. I was expecting comments. So there will be no comments from the CEC that we need to incorporate?

HEARING OFFICER CELLI: I’ll let Matt Layton speak on that. Matt Layton is at the podium.

Go ahead, Mr. Layton.

MR. LAYTON: Good morning, Mr. Hearing Officer. We do have a draft courtesy copy of the PDOC from South Coast that came in yesterday. Staff is working on that right now.

We had promised that if we found any issues or concerns, we would bring them up with the District as soon as possible. They’re under a time constraint as we are as well as the applicant.

We understand that they were planning to publish by the end of this month. I don’t know exactly what it is going to come in, but by the end of this month.

So I don’t think any comments that we have will delay the publishing of that particular preliminary PDOC, but who knows if we do have any comments. I don’t think we do, but I just raise that as they’ve been very generous in giving us this
courtesy copy. It could lead to some iteration, but should be not a very lengthy one.

HEARING OFFICER CELLI: Ms. Lee, did you hear that?

MS. LEE: Yes, I did hear that, and my manager, Andrew Lee, has asked me to convey that once we get in all the comments, depending on the extensiveness and the intensity, it may be three to four weeks before we could issue the PDOC.

MR. LAYTON: So we are trying to provide any comments. And again, we don't know if there are any comments, today, tomorrow, in the next couple days to get this thing moving.

We appreciate that the District would like to have a workable PDOC when they publish it, and we would appreciate that as I'm sure you would as well, so we're trying to turn this around.

HEARING OFFICER CELLI: Well, I'm heartened that there's cooperation and I really want to thank South Coast for the courtesy copy to staff. I think that that's great. I like that the staff and South Coast are working closely together. Based on Mr. Layton's representations, it seems that there probably aren't going to be that many comments, so we'll be able to turn this thing around.
MR. LAYTON: We don’t know that for sure, Mr. Hearing Officer.

I do have one question. Could I ask where the nine days came from between the final publication of the DOC and the PSA? Because that seems like a rather ambitious schedule we’ve never seen before in any other cases.

HEARING OFFICER CELLI: Yeah, we had a hearing on that and this was many, many status conferences ago.

MR. LAYTON: I absolutely understand that. I just hadn’t -- I’m just here, I thought I’d ask. Because we would hope that maybe the schedule could be shortened other places besides that particular preparation, because again, the documents from South Coast are large and complex.

HEARING OFFICER CELLI: Right.

MR. LAYTON: And we would like to get them right such that the PSA is actually a robust discussion about all the issues.

HEARING OFFICER CELLI: A lot of what’s driving this schedule is the need for the applicant to get a decision by October, and that was really the driving force behind creating the schedule that we had.
At the time it was Christopher Meyer was the project manager, and we had discussed the ability -- and it seems like it’s coming to fruition -- that South Coast and staff were able to work closely together during the process instead of waiting for South Coast to get through all of its rigmarole in order for us to get their final PDOC and so forth. So the idea was to work collaboratively to see if we could speed up the process, and with that we heard from staff that the nine days was doable because the idea was that staff would be ongoingly working with South Coast throughout the process.

MR. LAYTON: I guess I missed that meeting.

HEARING OFFICER CELLI: But that was the understanding. And so everything now has slipped, as we said in our last order, everything has slipped commensurately, so for every day that we’ve missed since the 20th of April, then day for day is we’re coming off.

So all I want to say is that it sounds like staff is making its best efforts to comply with the letter of the order from the Commission that they’re working closely with South Coast and South Coast is also participating by giving a courtesy copy. I’m
not sure we’ve ever got one of those before.

MR. LAYTON: Yes, we got one on Huntington Beach.

HEARING OFFICER CELLI: Okay, good.

MR. LAYTON: And we have gotten them on other cases. But again, it can help and it can’t hurt because sometimes things to change, and so you’re working on a copy that is draft and you don’t want to quote that or cite that.

HEARING OFFICER CELLI: Right.

MR. LAYTON: So you want to be careful.

HEARING OFFICER CELLI: Well, we’re not trying to jam up staff, but what we’re trying to do is accommodate the applicant, and the applicant has a very tight timeline and in this case staff is doing its best and we’re at the mercy of other agencies and we’re doing what we can.

So that’s really what we’re about. I understand that there may be some slippage there, too, but we certainly hope that staff can continue to work with alacrity.

MR. LAYTON: We’re working to either meet or beat the schedule, yes.

HEARING OFFICER CELLI: That would be great.
MR. LAYTON: For many applicants.

HEARING OFFICER CELLI: Mr. Harris, you have a question.

MR. HARRIS: Matt always brings out the best in me.

First off, I want to heap high praise on everybody for this administrative draft copy. This is a very good idea and I’m thankful for that process, so Thank you very much. I think it does help a little bit take some of the sting away from the nine days because there will be some familiarity with the document.

I guess I want to point out one thing, too. There is an additional opportunity for staff to provide comment to the District, and that’s once the document is published, once the PDOC is published there’s a comment period. So I’m usually the last person to talk about staff getting two bites at the apple, but I want to just highly recommend that they see it that way.

What I think I heard Matt suggesting was that they were going to take a look at the administrative drafts at the high level, look for fatal flaws, and God bless them for doing that because we don’t want to find out that there’s a
mission factor that’s wrong or something that would cause us all very much problems.

But I also do hope that staff will move with alacrity -- is that the word you used -- quickly to get their high level comments back, recognizing that they’ll have an opportunity during the PDOC comment period to take care of any loose ends that are out there as well. So we’ll strive for perfection but let’s do that with schedule in mind.

HEARING OFFICER CELLI: Thank you, Mr. Harris.

Anything further from staff?

MR. WINSTEAD: Yes, this is Keith Winstead. I just wanted to quickly clarify that the discussions based off the transcripts.

Basically there was discussions of a 45-day publication, then we had agreed to a 30-day. After that time there was a schedule published and then there was another status conference and there wasn’t another discussion about a nine-day. Everybody just kind of didn’t see it or discuss it so it just kind of became nine days.

Staff will work their best to make that schedule, but there was really no discussion of nine days in the record. Thank you.
HEARING OFFICER CELLI: I don’t remember that, but I’m not looking at the transcripts at this time.

In any event, we appreciate staff’s attempts to comply with the committee order, the scheduling order, and we’re all doing our best and I appreciate everybody’s efforts in this regard.

If there’s nothing further from any of the parties, I would note that the public adviser is a little shorthanded right now. I know that they’re going through some personnel transition.

I am looking around the room and I am familiar with everybody in this room and none of them would qualify as members of the public in the context of this hearing, everybody is associated with either staff, the committee, or the applicant.

I’m just going to go to the phones, then, and see if there’s anybody on the telephone who would like to make a comment at this time, and that would include Linda Tatum from City of Long Beach if you wish to make a comment, now would be a good time to speak up.

MS. TATUM: I have no comment.

HEARING OFFICER CELLI: Thank you, Ms. Tatum, Thank you for calling in.
Is there anyone on the phone at this time who would like to make a public comment with regard to any aspect of the Alamitos Energy Center?

Okay, then hearing none, at this time I’m going to return the conduct of this status conference back to the presiding member, Commissioner Douglas.

COMMISSIONER DOUGLAS: All right. And with that, I will thank all the parties and we’re adjourned.

(Adjourned at 10:34 a.m.)

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REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of June, 2016.

[Signature]

PETER PETTY
CER**D-493
Notary Public
CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

MARTHA L. NELSON, CERT**367

June 20, 2016