

DOCKETED	
Docket Number:	99-AFC-05C
Project Title:	Otay Mesa Compliance
TN #:	242540
Document Title:	STATEMENT OF STAFF APPROVAL OF POST CERTIFICATION CHANGE
Description:	
Filer:	susan fleming
Organization:	California Energy Commission
Submitter Role:	Public Agency
Submission Date:	4/4/2022 10:33:28 AM
Docketed Date:	4/4/2022



STATEMENT OF STAFF APPROVAL OF POST CERTIFICATION CHANGE OTAY MESA ENERGY CENTER PROJECT (99-AFC-5C)

On October 11, 2021, Otay Mesa Energy Center, LLC (OMEC), the project owner, filed a post certification petition with the California Energy Commission (CEC) requesting to modify the Otay Mesa Energy Center (OMEC). The 510-megawatt (MW) combined-cycle, natural gas-fired project was certified by the California Energy Commission (CEC) in April 2001 and began commercial operation on October 3, 2009. The facility is located in the Otay Mesa area in western San Diego County.

DESCRIPTION OF PROPOSED CHANGE

The project owner seeks approval to relocate a 1,700-foot-long portion of the existing 2-mile-long fuel gas supply pipeline connecting OMEC with San Diego Gas & Electric's (SDG&E's) metering station near the US-Mexico border. The relocation is necessary to accommodate an extension of State Route 11 (SR-11) and the new Otay Mesa East Land Port of Entry (LPOE; Otay Mesa East LPOE/SR-11 project) at the border of the United States and Mexico planned by the California Department of Transportation (Caltrans), United States Department of Transportation Federal Highway Transportation Administration (FHWA), and federal General Services Administration (GSA). These agencies have requested that this segment of the OMEC fuel gas supply pipeline be relocated outside of the project footprint of the planned Otay Mesa East LPOE/SR-11 project. As part of the larger Otay Mesa East LPOE/SR-11 project, Caltrans and FHWA conducted environmental studies in compliance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) resulting in certification of the Caltrans/FHWA EIR/EIS.

The petition is available on the [CEC's project webpage](https://www.energy.ca.gov/powerplant/combined-cycle/otay-mesa-energy-center) at <https://www.energy.ca.gov/powerplant/combined-cycle/otay-mesa-energy-center>.

CEC STAFF REVIEW AND CONCLUSIONS

Title 20, California Code of Regulations, section 1769 states that a project owner shall petition the CEC for approval of any change it proposes to the project design, operation, or performance requirements of a certified facility.

The CEC technical staff (staff) reviewed the petition for potential environmental effects and consistency with applicable laws, ordinances, regulations, and standards (LORS).

Staff's conclusions for all technical and environmental areas are summarized in **Table 1**.

TABLE 1
Summary of Conclusions for all Technical and Environmental Areas

Technical Areas Reviewed	CEQA				Conforms with applicable LORS
	Potentially Significant Impact	Less Than Significant Impact with Mitigation (with Revised or New COCs)	Less Than Significant Impact (with or without Existing COCs)	No Impact	
Air Quality			X		X
Biological Resources			X		X
Cultural Resources			X		X
Efficiency			X		
Facility Design					X
Geological and Paleontological Resources			X		X
Hazardous Materials Management			X		X
Land Use			X		X
Noise and Vibration			X		X
Public Health			X		X
Reliability					
Socioeconomics			X		
Soil and Water Resources			X		X
Traffic and Transportation			X		X
Transmission Line Safety and Nuisance			X		X
Transmission System Engineering					
Visual Resources			X		X
Waste Management			X		X
Worker Safety and Fire Protection			X		X

Areas shown in gray are not subject to CEQA consideration or have no applicable LORS the project must comply with.

Staff has determined the project would continue to comply with applicable LORS, would not result in any significant adverse environmental impacts, and would not require a change to any conditions of certification (COC).

The bases for each of staff's conclusions are provided below.

AIR QUALITY

The pipeline relocation project would comply with the Caltrans Standard Specifications Section 14 and the mitigation measures listed in the FHWA and Caltrans Environmental Impact Report (EIR)/Environmental Impact Statement (EIS). The project owner will also implement CEC Air Quality conditions of certification (COC) for construction, **AQ-SC1** through **AQ-SC5**, to minimize the emission of fugitive dust, particulate matter of 10 micrometers or less in diameter (PM10), particulate matter of 2.5 micrometers and smaller in diameter (PM2.5), and diesel exhaust during construction. Air quality impacts would not be greater than those analyzed in the Final Commission Decision (Final Decision). Implementation of the existing Air Quality conditions of certification adopted in the Final Decision and amendments thereafter would ensure continued compliance with air quality LORS. Potential air quality impacts associated with the pipeline relocation project are expected to be less than significant.

BIOLOGICAL RESOURCES

Construction of the proposed project changes would be located approximately one mile south of the boundaries of the existing OMEC property. Construction activities would occur in the vicinity of biologically sensitive areas, including potential habitat for federally listed wildlife species, including California gnatcatcher (*Polioptila californica californica*), Riverside fairy shrimp (*Streptocephalus woottoni*), and Quino checkerspot butterfly (*Euphydryas editha quino*) and the Petition area is within a critical habitat area for the San Diego fairy shrimp (*Branchinecta sandiegonensis*). The area also has the potential to support special-status wildlife species such as western burrowing owl (*Athene cunicularia hypugaea*), loggerhead shrike (*Lanius ludovicianus*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*), horned lark (*Eremophila alpestris actia*), and other birds. Approximately 2 acres of non-native grassland and 1.3 acres of San Diego fairy shrimp critical habitat would be impacted. Based on the presence of known and potential habitat in the vicinity of the proposed project changes, impacts to biological resources have the potential to occur from construction without implementation of impact avoidance, minimization, and mitigation measures.

The project owner will be required to implement relevant Biological Avoidance and Minimization Measures (AMMs) included in Appendix N, Environmental Commitments Records for the State Route 11/Otay Mesa East Land Port of Entry Project (TIER II) (SR-11/Otay Mesa East LPOE) EIR/EIS as part of implementation of the proposed

project changes as this activity is part of the entire Otay Mesa East LPOE project analyzed by the relevant regulatory agencies. The project owner will be required to implement permit conditions included for coverage under the U.S. Fish and Wildlife Service (USFWS) Section 7 Biological Opinion, California Department of Fish and Wildlife Streambed Alteration Agreement, U.S. Army Corps of Engineers (USACE) Section 404 Nationwide Permit, and State Clean Water Act 401 Certification issued to the FHWA and/or Caltrans for the SR-11/Otay Mesa East LPOE project. These permit conditions and mitigation measures are discussed fully in the OMEC Data Request Response Set 1 (TN241369). Habitat compensation would be achieved by enhancement and creation/restoration of vernal pools at the Lonestar Ridge West conservation site as part of compensation for the SR-11/Otay Mesa East LPOE Project. These measures would be compatible with the existing conditions of certification for the OMEC. Implementation of COCs **BIO-1** through **BIO-9** and **BIO-12** would ensure impacts to biological resources would be less than significant.

CULTURAL RESOURCES

Construction of the proposed changes would be within an area previously surveyed by Caltrans for the Caltrans/FHWA Otay Mesa East Land Port of Entry and State Route 11 project. Three cultural resources within the project footprint were identified, however, none of these resources were recommended or determined eligible for listing in the National Register of Historic Places or California Register of Historical Resources.

While the cultural resources specialist meeting the qualifications of **CUL-1** assigned to fulfill the cultural resources conditions of certification may also be associated with the Caltrans/FHWA Otay Mesa East Land Port of Entry and State Route 11 project, the project owner asserts that they will appoint an environmental compliance manager to track CEC environmental requirements, including **CUL-1** through **CUL-16**, and will coordinate with the designated cultural resources specialist for the pipeline relocation project and CEC staff to document compliance with the COCs. Implementation of **CUL-1** through **CUL-16** would mitigate any potentially significant impacts to less than significant. The proposed project changes would not result in changes to any cultural resources condition of certification for the project, and the project would remain in compliance with all applicable LORS related to cultural resources. COCs **CUL-1** through **CUL-16**, applicable to this proposed project change, were developed to ensure that, if cultural resources are encountered during construction, adequate measures are in place to mitigate any project-level impacts to less than significant. These conditions also require the project owner to ensure that the cultural resources COCs are implemented regardless of the cultural resources specialist's potential Caltrans affiliation.

EFFICENCY

Because the relocation of the pipeline would not affect project operation, it would have no impact on the project's thermal efficiency or operational reliability.

FACILITY DESIGN

The relocation of the fuel gas supply pipeline at OMEC must be in accordance with the 2019 edition of the California Building Code (CBC). Implementations of the existing Facility Design COCs adopted in the Final Decision and construction compliance oversight by the CEC's delegate chief building official would ensure this compliance.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

The geotechnical report prepared for Caltrans for the new pipeline provided sufficient information to evaluate the proposed new alignment. Construction of the new pipeline will be completed in accordance with existing COCs and Caltrans oversight and demonstrated by their preparation of the EIS. No new COCs are required and compliance with the CBC will ensure safe construction and operation.

Existing COCs and oversight provided by Caltrans will ensure that any paleontological resources encountered during construction of the new pipeline will be dealt with appropriately. Existing COCs and Caltrans standard protocol for addressing paleontological resources encountered during construction will be handled properly and significant resources identified will be archived in accordance with existing COCs.

HAZARDOUS MATERIALS MANAGEMENT

During the proposed installation of the new natural gas supply pipeline, several hazardous materials would be used onsite. Like materials used for equipment maintenance activities, these materials would include gasoline, solvents, lubricants, paint, and welding gases. Existing COC **WORKER SAFETY-1** that covers worker health and safety requirements would ensure the safe and appropriate usage of the hazardous materials used for the proposed project modifications. Due to the low volumes to be used, they would not present a significant impact to workers or the offsite public. No extremely hazardous or regulated hazardous materials would be used specifically for the installation of the new natural gas pipeline. Therefore, with the project owner's continued compliance with existing COC **WORKER SAFETY-1**, the installation of the new natural gas supply pipeline would not have a significant impact on the offsite public or the environment and would continue to comply with all applicable LORS.

LAND USE

The relocated fuel supply line would be similar in nature to the original underground gas pipeline alignment discussed in the OMEC Final Decision. The general area around the fuel supply line has a San Diego County designated planned land use of Heavy and Light Industrial and a zoning designation of S88, meaning it is subject to the East Otay Mesa Business Park Specific Plan, which assigns a Mixed Industrial land use designation for the site. The Petition area is vacant and undeveloped with no adjacent residential or community-based area. The relocated fuel supply line would be placed in a trench with approximately four to five feet of cover, in compliance with Land Use Policy UD-7 from the Specific Plan, which requires all utility lines to be underground. Relocation of the fuel supply line would not require the conversion of designated land uses, conflict with designated land uses, conflict with land use, plans, policies, or goals, or divide an established community.

NOISE AND VIBRATION

The relocation of the gas supply pipeline would not increase noise at nearby receptors (approximately 1,000 feet away). Furthermore, the project would continue to meet operational noise requirements established in the Final Decision. Therefore, the changes in this petition would create a less than significant impact due to operational noise.

PUBLIC HEALTH

The pipeline relocation project would not result in unmitigated impacts to public health due to the limited and temporary nature of construction and lack of sensitive receptors in the area. There are no residences or sensitive receptors (defined as K-12 schools, hospitals, nursing homes, parks, and day care centers) identified within one mile of the SR-11 and Otay Mesa East LPOE. In addition, annual construction emissions of the SR-11 and Otay Mesa East LPOE facilities would be below the de minimis thresholds for all pollutants (i.e., 100 tons per year). The pipeline relocation project would comply with Caltrans Standard Specifications Section 14 and the mitigation measures listed in the FHWA and Caltrans EIR/EIS to reduce construction particulate matter impacts to a less than significant level. The project owner will also implement CEC Air Quality COCs for construction, **AQ-SC1** through **AQ-SC5**, to minimize the emission of fugitive dust, PM10, PM2.5, and diesel exhaust during construction. With the implementation of the existing Air Quality conditions of certification adopted in the Final Decision and amendments thereafter, potential public health impacts associated with the pipeline relocation project are expected to be less than significant.

RELIABILITY

Because the relocation of the pipeline would not affect project operation, it would have no impact on the project's thermal efficiency or operational reliability.

SOCIOECONOMICS

Construction for the proposed relocation of the fuel supply line would take approximately three months and up to 20 pieces of construction equipment and 17 workers. There would be no change to the operations workforce at the OMEC. From a socioeconomics standpoint, the proposed project change would have less than significant workforce-related impacts on housing and community services due to the temporary nature of construction and limited construction workers.

SOIL AND WATER

Environmental impacts on soil and water resources are addressed in an EIR prepared for Caltrans for the pipeline relocation. The EIR provided sufficient information to evaluate the proposed new alignment. Construction of the new pipeline would be completed in accordance with existing COCs and Caltrans oversight and demonstrated by their preparation of the EIR. No new COCs are required, and the change would comply with applicable LORS.

TRAFFIC AND TRANSPORTATION

The implementation of the existing COCs in the OMEC Final Decision would ensure that impacts would remain less than significant. Applicable conditions include **TRANS-1** (oversize and overweight transportation permits), **TRANS-2** (encroachment permits), **TRANS-3** (hazardous materials transportation permits). A Preliminary Traffic Management Plan was prepared by Caltrans, implementation of which would satisfy **TRANS-4** (construction traffic control plan). Existing COCs **TRANS-5** through **TRANS-8** are not applicable to the proposed project change.

TRANSMISSION LINE SAFETY AND NUISANCE

The proposed modifications would not change the transmission line safety and nuisance staff analysis, nor COCs. Implementation of the existing conditions of certification adopted in the Final Decision would ensure continued compliance with LORS.

TRANSMISSION SYSTEM ENGINEERING

The proposed natural gas pipeline relocation does not include activities with the transmission lines or within the project switchyard and would not impact the transmission grid. Therefore, there will be no impacts to transmission system engineering, and the facility would remain in compliance with applicable LORS.

VISUAL RESOURCES

The relocated pipeline would be placed below approximately 4 to 5 feet of cover. Scenic resources would not be impacted, and no permanent impact on visual resources would result from the relocation. There are no COCs in the OMEC Final Decision that apply to the pipeline relocation for visual resources.

WASTE MANAGEMENT

There will be no new waste streams generated and once the relocated pipeline is constructed no new waste will be generated. During construction, the quantities of waste generated would be similar to the quantities generated during construction of the original pipeline. Disposal of that waste in compliance with existing COCs for the project is well within the capacity of existing disposal facilities.

WORKER SAFETY AND FIRE PROTECTION

Existing COC **WORKER SAFETY-1** covers worker health and safety requirements for construction activities, including activities to be performed to complete the proposed project modifications. By continuing to comply with existing conditions of certification, the project owner's proposed relocation of a portion of the existing natural gas supply pipeline would not have a significant impact on worker health and safety and would comply with all applicable LORS.

Environmental Justice

Staff reviewed CalEnviroScreen 4.0 data to determine whether the United States census tract where the OMEC is located (6073010015) is identified as a disadvantaged community. This science-based mapping tool is used by the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities based on geographic, socioeconomic, public health, and environmental hazard criteria pursuant to Senate Bill 535 (De León, Chapter 830, Statutes of 2012). The CalEnviroScreen 4.0 overall percentile score for this census tract is 57 and thus is not identified as a disadvantaged community¹.

Figure 1 shows 2020 census blocks in the six-mile radius of the OMEC with a minority population greater than or equal to 50 percent. The population in these census blocks represents an environmental justice (EJ) population based on race and ethnicity as defined in the United States Environmental Protection Agency's *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*. Staff conservatively obtains demographic data within a six-mile radius around a project site based on the parameters for dispersion modeling used in staff's air quality analysis. Air quality impacts are generally the type of project impacts that extend the furthest from a project site. Beyond a six-mile radius, air emissions have either settled out of the air column or mixed with surrounding air to the extent the potential impacts are less than significant. The area of potential impacts would not extend this far from the project site for most other technical areas included in staff's EJ analysis.

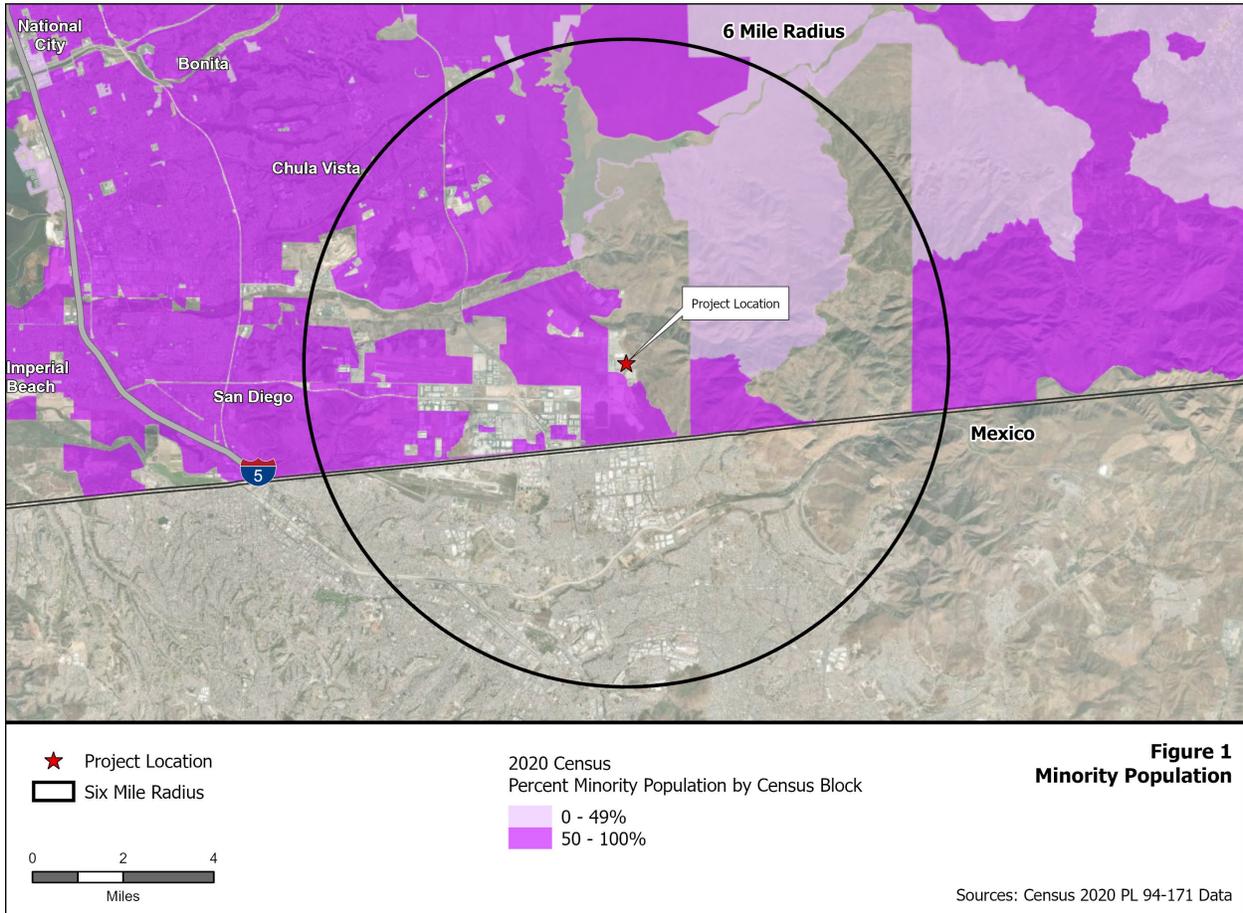
¹ Source: CalEPA Proposed SB 535 Disadvantaged Communities: October 2021
<https://calepa.ca.gov/envjustice/ghginvest/>

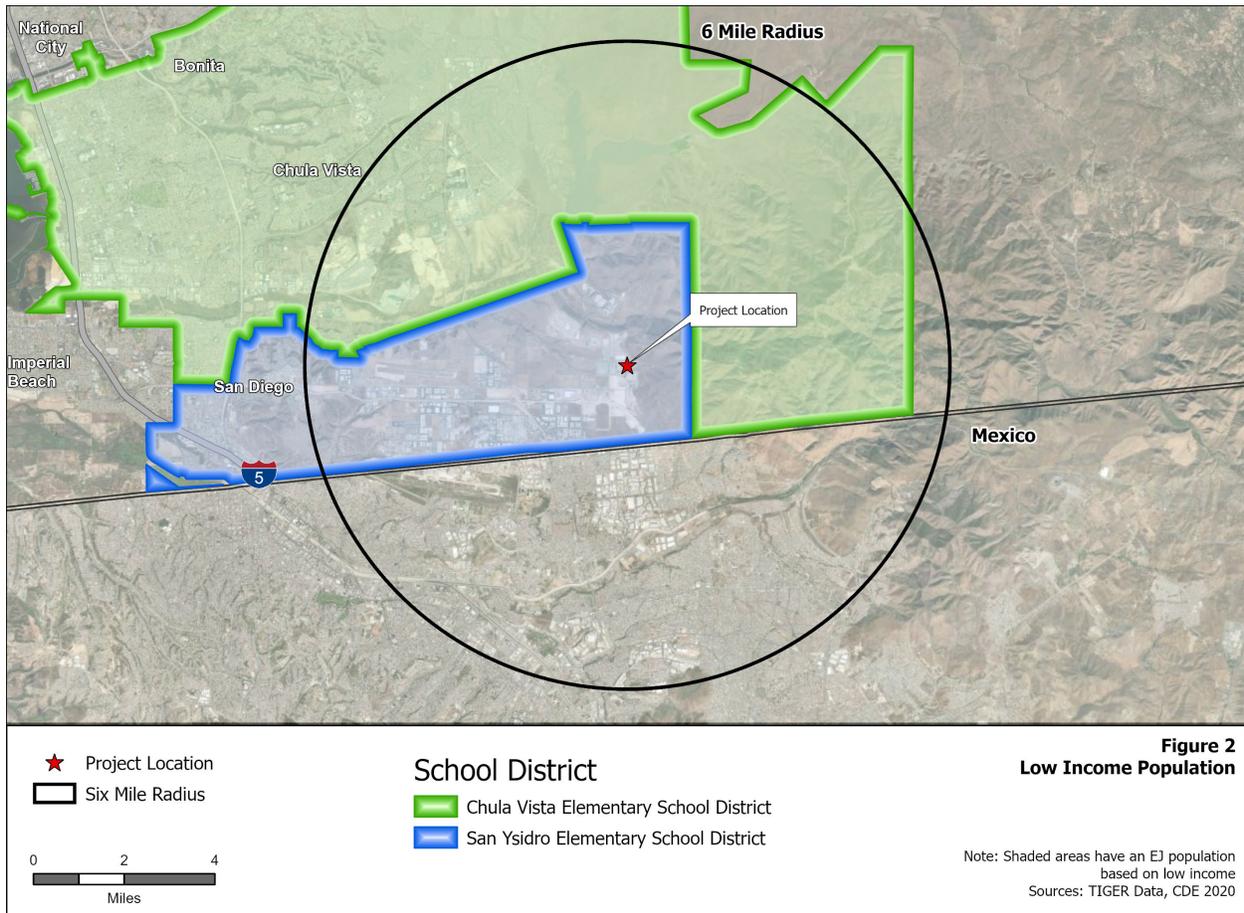
Based on California Department of Education data in the **Environmental Justice – Table 1**, staff concluded that the percentage of those living in the Chula Vista Elementary and San Ysidro Elementary school districts (in a six-mile radius of the project site) and enrolled in the free or reduced price meal program is larger than those in the reference geography, and thus are considered an EJ population based on low income as defined in *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*. **Environmental Justice – Figure 2** shows where the boundaries of the school district are in relation to the six-mile radius around the Otay Mesa Energy Center site.

Environmental Justice – Table 1
Low Income Data within the Project Area

SCHOOL DISTRICTS IN SIX-MILE RADIUS	Enrollment Used for Meals	Free or Reduced Price Meals	
Chula Vista Elementary	29,478	15,445	52.4%
San Ysidro Elementary	4,419	3,279	74.2%
REFERENCE GEOGRAPHY			
San Diego County	490,068	240,102	49.0%
Source: CDE 2021. California Department of Education, DataQuest, Free or Reduced Price Meals, District level data for the year 2020-2021, < http://dq.cde.ca.gov/dataquest/ >.			

The following technical areas (if affected) consider impacts to EJ populations: Air Quality, Cultural Resources (indigenous people), 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, Waste Management, and Worker Safety and Fire Protection.





Environmental Justice Conclusions

For this petition, staff concludes that impacts would be less than significant, and thus impacts on the EJ population, represented in **Figures 1** and **2**, and **Table 2**, would be less than significant.

CEC STAFF CONCLUSIONS

Pursuant to Title 20, California Code of Regulations, section 1769(a)(3)(A), CEC staff has determined for this petition that approval by the Commission at a noticed business meeting or hearing is not required and the proposed changes meet the criteria for approval by staff because:

- i. there is no possibility that the change may have a significant impact on the environment, or the change is exempt from the California Environmental Quality Act;
- ii. the change would not cause the project to fail to comply with any applicable laws, ordinances, regulations, or standards; and
- iii. the change will not require a change to, or deletion of a condition of certification adopted by the commission in the final decision or subsequent amendments.

Staff also concludes that the proposed changes do not meet the criteria requiring production of subsequent or supplemental review as specified in Title 14, California Code of Regulations, section 15162(a).

WRITTEN COMMENTS

This Statement of staff Approval of the proposed project changes has been filed in the docket for this project. Pursuant to section 1769(a)(3)(C), any person may file an objection to staff's determination within 14 days of the filing of this statement on the grounds that the project change does not meet the criteria set forth in sections 1769(a)(3)(A). Absent any objections as specified in 1769(a)(3)(C), this petition will be approved 14 days after this statement is filed.

Written comments or objections to staff's determination may be submitted using the CEC's e-Commenting feature, as follows: Go to the [CEC's project webpage](#) and click on either the "Comment on this Proceeding," or "[Submit e-Comment](#)" link. When your comments are filed, you will receive an email with a link to them.

Written comments or objections may also be mailed to:

California Energy Commission
Docket Unit, MS-4
Docket No. 99-AFC-05C
715 P Street
Sacramento, CA 95814-5512

All comments and materials filed with the Docket Unit will be added to the facility Docket Log and be publicly accessible on the [CEC's project webpage](#).

If you have questions about this notice, please contact Joseph Douglas, Office of Compliance Monitoring and Enforcement, Compliance Project Manager, at (916) 956-9527, or via email at Joseph.Douglas@energy.ca.gov

For information on public participation, please contact the Public Advisor at (916) 957-7910 or send your email to publicadvisor@energy.ca.gov.

News media inquiries should be directed to the CEC Media Office at (916) 654-4989, or by email at mediaoffice@energy.ca.gov.

List Serve: 708, Otay Mesa Energy Center