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Comment Received From: Stephen Goldfarb

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Stephen Goldfarb's comment on Quail Brush power plant

Additional submitted attachment is included below.

Dear Commissioners:

This comment is written in opposition to the Quail Brush applicant's petition to the California Energy Commission to seek an additional one year suspension.

It is also intended to augment statements made in the well researched comment provided by the organizations Preserve Wild Santee and Center for Biological Diversity.

The California Public Resources Code instructs the California Energy Commission on the criteria the Commission must apply when considering an electrical generating power plant such as Quail Brush.

We call your attention to Section 22525, which reads:

25525. The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.

In particular we note the sentence, "The commission may not make a finding in conflict with applicable federal law or regulation."

It is well known that the applicant seeks to install the Quail Brush power plant in the Multiple Habitat Planning Area (MHPA) of the Multiple Species Conservation Program (MSCP).

The MSCP is a federal Habitat Conservation Plan (HCP) as provided in the United States Endangered Species Act, Section 10(a)(2)(A).

The regional MSCP originated with the U.S. Department of Interior. The U.S. Fish and Wildlife Service, a division of the U.S. Department of the Interior, is a party to and a formulator of the MSCP based on the HCP provisions of the federal Endangered Species Act.

Therefore the MSCP meets the criteria for being a federal regulation.

The MSCP contains limited provisions for private development. It prohibits industrial use. This is what the MSCP development guidelines, in principle part, state:

"New, higher intensity uses, such as urban density residential (more than one dwelling unit per acre), commercial and industrial uses, and landfills generally are not compatible within the MHPA."

A major power plant, such as Quail Brush, is clearly out of conformance to the MSCP, would not be allowed within the MSCP, and is contrary to federal regulation.

We believe that this provides sufficient and unambiguous guidance to the California Energy Commission to decline the applicant's petition for a one year suspension, and to deny the Quail Brush application in total.

Stephen Goldfarb