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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:
The Application for Certification
for the ALAMITOS ENERGY CENTER

Docket No. 13-AFC-01

Testimony of Joe Geever, J.D.
Alamitos Energy Center Final Staff Assessment
Docket 13-AFC-01

Prepared for Los Cerritos Wetlands Land Trust

October 21, 2016

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1.0 Introduction

My testimony has been prepared on behalf of the Los Cerritos Wetlands Land Trust (LCWLT or Trust) and addresses the inadequate alternatives analysis in the September 2016 Final Staff Analysis (FSA) prepared by the California Energy Commission (CEC) for the Alamitos Energy Center (AEC). My testimony is based upon my personal experience and expertise in the construction trade, as an environmental advocate with expertise in coastal issues and energy, and as a J.D. I have a Bachelors in Economics from the University of Virginia and a J.D. from the University of Virginia School of Law. I worked for over a decade with the Surfrider Foundation as a community organizer on issues related to marine living resources management, coastal zone management, and one through cooling. I worked in the construction trade as an electrician from 1985 to 1999 on several industrial, commercial and multi-unit residential projects involving demolition, renovation and construction.

Please note that the Trust submits this testimony under protest based upon the failure of the Staff to prepare a compete Final Staff Assessment prior to the due date of this testimony. Myself and other experts are constrained in our abilities to support the Trust's right to meaningful public participation in this process without a complete staff assessment upon which to base testimony. The document being treated as the "Final Staff Assessment" does not offer any Alternatives analysis and entirely fails to identify, analyze, and mitigate for Air Quality or Cumulative Impacts including the demolition of the existing structure on the project site. Because many other substantive topics are reliant on mitigating the significant impacts from air quality degradation and the varied impacts of demolition, it is impossible to finalize our testimony on any topics germane to this proceeding. The Trust continues to request a postponement of the evidentiary hearing, and a renewed opportunity for comprehensive Opening Testimony, until the "final" Final Staff Assessment is available for review.

Nonetheless, this testimony is offered at this time as the best possible evidence that exists given the total lack of information regarding critical project components, namely the demolition of existing, onsite Alamitos Generating Station (AGS) and construction and operating of battery storage facility and alternatives.

2.0 Demolition and the BESS are a Part of this Project

The Applicant's demolition of AGS and the development of the Battery Energy Storage System (BESS) are project components proposed by the Applicant which will have signifiagnat environmental impacts that must, therefore, be subject to environmental review as part of this proceeding. Thus far, the impacts of these project components have not even been analyzed as cumulative, much less as part and parcel of this project. The CEC and PUC are on record, in other proceedings, that demolition of an existing project in an application to construct a replacement or related facility must be analyzed pursuant to CEQA.

As the CEC Chief Counsel explained in regards to the demolition of the South Bay power plant, “Because the demolition is part of a master plan to build a replacement plant at another location, however, the Energy Commission staff plans to assess the environmental impacts of the demolition in its environmental assessment of the proposed replacement plant. Actually, all foreseeable activities related to the proposed replacement power plant will be covered in the Commission staff’s environmental assessment.”¹

In that case, the CEC took the position that it did not have jurisdiction over the demolition: “The existing power plant was not licensed by the Energy Commission. Its location is not a “site” on which a thermal power plant regulated by the Energy Commission has been constructed or is proposed for construction.” (Ibid.) *Nonetheless*, even asserting that it did not have jurisdiction, the CEC still took the position that it had a duty to complete environmental review as part of the review for the replacement project.

Here, the existing power plant is on the same site and is owned by the same owner, AES, as the proposed AEC -- an even greater reason for the Commission to review that demolition than that found in the South Bay Power Plant demolition.

Similarly, when the CPUC conducted CEQA review for a permit to construct the new South Bay substation, demolition of the existing structure was part of the project and impacts of the demolition were identified and analyzed. (See Exhibit 13 and <http://www.cpuc.ca.gov/environment/info/dudek/sbsrp/FinalEIR.htm>, incorporated herein by reference.) For example, air quality impacts were identified to include “Transport of waste materials from the demolition of the South Bay Substation would require 1,254 truck trips (6 trips per day) “ (Exhibit 12 p. D.4-13) and analysis included these impacts: “Construction emission calculations include all project components including demolition activities associated with the existing South Bay Substation.” (Id. at p. D.4-14.)

2.1 Demolition Will Cause Significant Environmental Impacts

Without the benefit of even a skeletal description of the decommissioning, decontamination and demolition of AGS, it is impossible to provide any precise evidence of the adverse impacts from the project and/or the appropriate mitigation measures. Nonetheless, experience with past projects and common sense dictate that demolition is an inherently dirty and harmful process which will have significant environmental impacts that must be mitigated for pursuant to CEQA.

Demolition of electrical generating power plants is far from a benign process. And without thorough consideration of alternatives that will minimize the AEC’s contribution to the adverse impacts of decontamination and demolition, the concurrent projects will cause significant impacts to the environment and surrounding community. Many of these impacts from decontamination and demolition will be compounded by the construction and operation of the proposed AEC.

¹ Exhibit 12

For example, demolition of the existing generators will expose the environment and the surrounding community to significant air quality degradation², noise³, hazardous materials entering the environment,⁴ traffic,⁵ lighting, etc – and similar adverse impacts from AEC operation will compound those foreseeable impacts from demolition.

Clearly demolition noise can significantly impact birds inhabiting the nearby wetlands. And if not properly planned and managed, demolition can create hazards to workers and public safety. And the planning and implementation of the demolition project will require strict controls to ensure that numerous hazardous substances being removed during demolition will not enter the environment. Finally, it is not clear in the Staff assessment that traffic and other associated adverse impacts from the demolition project will be similar to those of constructing the AEC – as asserted by Staff.

Nonetheless, the FSA fails to document the potential significant cumulative impacts from operation of the AEC concurrent with demolition of the AGS. Furthermore, without documenting the Applicant’s plan for demolition, it is impossible to balance this project against alternatives or to craft sufficient mitigation measures.

2.2 Unsubstantiated Conclusions Regarding Demolition Impact

Even though Staff has steadfastly failed to identify or analyze impacts of demolition, it has drawn unsubstantiated conclusions regarding demolition including that adverse impacts from demolition will not result in significant cumulative impacts:

The combined effects on biological resources from the construction and operation of AEC with other expected projects in the area described above, would not be cumulatively significant because of the dispersed nature of the projects in location and time, and the expected use of readily available mitigation by other projects to address similar impacts.⁶

The document then presented as the FSA then goes on to list some of the mitigation measures that would ensure against any cumulative impacts:

*If operation and demolition of the AGS or activities of other nearby projects overlap with those of the AEC, cumulative indirect impacts to wildlife from noise, dust, lighting, spread of invasive weeds, or stormwater runoff could occur. However, implementation of Conditions of Certification **BIO-1** through **BIO-7**, **SOIL&WATER-1**, **AQ-SC3**, **AQ-SC4**, **NOISE-6**, **NOISE-8**, and **VIS-1** would minimize these impacts from the proposed AEC.*

² ibid

³ Exhibit 14

⁴ exhibit 15

⁵ Exhibit 16

⁶ pFSA at 4.2-37

Because impacts from the demolition have not even been identified, much less addressed in the staff analysis, implementation of these conditions, as explained further below, will not mitigate impacts from this project.

BIOLOGICAL MITIGATION: “BIO-1” through “BIO-7”

BIO-1 through BIO-7 are all based on the assumptions that noise, dust, air quality degradation, polluted runoff and other adverse impacts from construction can be adequately mitigated. We disagree with the assumption those construction impacts are the same as demolition impacts. Further, the analysis and mitigation measures do not account for the fact that the impacts will occur over a longer, yet unidentified, period of time. Finally, the Staff assessment fails to consider alternatives to the proposed 1040MW gas-fired generation capacity that would reduce the impacts from operation of the AEC, and consequently minimize the cumulative impacts.

SOIL AND WATER MITIGATION/ JURISDICTIONAL WATERS: “SOIL&WATER-1”

*The AEC site is near the Los Cerritos wetlands which includes estuarine and marine wetland habitats. These areas appear to meet criteria as jurisdictional waters of the state and waters of the U.S. Indirect impacts to wetlands may result if construction contaminants, sediment, or untreated stormwater effluent from the AEC project enter these sensitive areas. The applicant has committed to implementing Best Management Practices (BMPs) to control site runoff during construction and demolition activities in accordance with the project’s Stormwater Pollution Prevention Plan (SWPPP) (AEC 2015f, p. 5.2-13); this requirement is subsumed as a requirement of Condition of Certification **SOIL&WATER-1**. With implementation of these measures, indirect water quality impacts to adjacent wetland habitats would be less than significant.⁷*

These mitigation measures are apparently meant to control contaminants and sediment deposition from stormwater runoff. However, as seen from video of power plant demolition elsewhere, sediment and hazardous materials can be air-borne during demolition and very likely come to rest in the nearby wetlands and adjoining river.⁸ Further, it is possible that PCB and other hazardous materials left on-site can leach out of existing structures and contaminate runoff, and it is unclear that the mitigation measures will actually capture and dispose of those toxic materials.

Finally, the Staff fails to consider alternatives to the proposed 1040MW gas-fired generation capacity that would reduce the impacts from operation of the AEC, and consequently minimize the cumulative impacts.

AIR QUALITY MITIGATION: “AQ-SC3, AQ-SC4”

⁷ pFSA at 4.2-28

⁸ Exhibit 14

Ironically, the Staff assessment does not include the section on Air Quality and the Conditions of Certification cited. Consequently it is impossible to determine if Conditions of Certification “AQ-SC3” and “AQ-SC4” are adequate mitigation measures.

Further, the cumulative impacts from decontamination and demolition, without adequate mitigation measures, can release numerous hazardous materials into the environment. Further, work force transportation, demolition equipment operation, and truck trips to remove debris (including hazardous materials), add air quality concerns distinctly different than those of construction of the AEC.

NOISE MITIGATION “Noise-6” and “Noise-8”

The Biological Resources section of the Staff assessment, offers both the assumptions and conclusions about noise generated by concurrent operation of the proposed AEC and the demolition of the AGS:

...[T]hat is, the cumulative noise impacts from construction of the AEC with concurrent operation of the existing AGS, is expected to be similar to demolition of the existing AGS with concurrent operation of the AEC.

This is because construction and demolition activities are assumed to consist of similar types and quantities of noise generating equipment and therefore result in similar noise impacts. While construction/demolition of one facility would occur, it is assumed concurrent operation of the second would occur, and vice versa. Because all construction/demolition and concurrent operation would occur within the same project boundary, the cumulative impacts from both projects are expected to be similar, and therefore less than significant as determined by this staff assessment.⁹

The assumptions, and consequently the conclusion, are unsupported in the record. In fact, there is nothing in the record that suggests how the Applicant will decontaminate and demolish the AGS. But evidence from other demolition projects clearly shows the noise levels can be significant and have direct impacts on wildlife in the vicinity of the site.¹⁰

Further, the Staff states:

Construction and demolition noise would occur over 56 months in proximity to the Los Cerritos wetlands complex.¹¹

However, there is no timeline for demolition activities presented or analyzed – neither when the demolition would begin or how long it might take.

The loudest noise generated by the proposed project during construction and demolition would be from pile driving; this is also the noise most likely to cause startling effects to birds. Unsilenced pile driving would be approximately 76 dBA at the northeast corner of the Los

⁹ pFSA at 4.6-22

¹⁰ Exhibit 14

¹¹ pFSA at 4.2-29

Cerritos Wetlands (about 1,200 feet from nearest pile driving and based on 104 dBA at 50 feet). However, several methods are available to reduce piledriving noise; these include 1) use of pads or plywood impact cushions, 2) dampened driving using a blanket or enclosure around the hammer, and 3) use of vibratory pile drivers. These methods reduce noise by about 8 dBA to 15 dBA compared to unsilenced impact drivers.¹²

Again, there is no evidence that demolition noise would be similar to pile driving noise. Nor is there any evidence that the mitigation measures for pile driving are effective at dampening demolition noise.

In conclusion, there is no support for the assertion that:

With implementation of these conditions of certification, construction and demolition noise impacts to special-status species in the vicinity of the AEC would be less than significant.¹³

DUST

The Staff have made similar statements about mitigating the impacts of dust on the environment and surrounding community.

*The applicant has proposed mitigation measures to reduce fugitive dust emissions during demolition and construction (AEC 2015f, p. 5.1-44 to 5.1-45). Staff proposes conditions of certification to avoid and minimize impacts of dust generated by construction and demolition activities. Condition of Certification **AQ-SC3** requires specific measures to minimize fugitive dust, and Condition of Certification **AQ-SC4** requires construction monitoring for visible dust plumes and remediation measures in the event visible dust plumes are observed. With implementation of these conditions of certification, impacts to plants and habitat in the Los Cerritos Wetlands from project related dust would be less than significant.¹⁴*

However, the pFSA does not include an analysis of Air Quality and/or the mitigation measures cited in the discussion of dust. Further, the dust from demolition of AGS will be dramatically different than the dust generated during construction of the proposed AEC. Demolition dust can include hazardous materials that can be released into the environment and cause persistent adverse impacts well into the future.

ensure that the cumulative impacts will be adequately mitigated.

3.0 Alternatives Have Been Wrongly Dismissed

The CPUC approval of a contract for the proposed AES has been wrongly used in this proceeding to dismiss alternatives at the same time that the Staff is ignoring the actual terms of the PUC approval. The PUC approved 640 MW of gas fired generation, yet the Staff continues to process this application for 1040MW's (PUC Decisions D1511041 and D1605053 , hereby

¹² ibid

¹³ ibid

¹⁴ pFSA at 4.2-30

incorporated by reference). At the same time, even though this project does not conform to the PUC approval, it is used to dismiss alternatives. For example, the Staff asserts:

For purposes of this analysis, staff considered solar technology, other fossil fuels, nuclear, biomass, hydroelectric, wind, and geothermal technologies as alternative generating technologies for AEC. Due to regulatory prohibitions, nuclear technology was rejected.

Biomass, hydroelectric, geothermal, wind, and solar technologies were ruled out due to the lack of adequate space on the project site and/or the unavailability of these energy resources in the project area. And, coal and oil are too highly polluting.

Therefore, staff believes that the applicant's selection of a natural gas-burning technology is reasonable.¹⁵

¹⁵ FSA at 5.3-4 (emphasis added)