

Docket Optical System - Walnut Creek Evid Hearing

From: Garret Shean
To: Commission Docket Unit; Davy, Douglas; DeCarlo, Lisa; Galati, Scott; Geesman, John; Gloria D. Smith, CURE; Graber, Cathy; Jack Caswell; Joseph, CURE, Marc; Kostrzewa, Lawrence; McCabe, Thomas; Morris, Jenifer; Pfannenstiel, Jackalyne; Public Advisor's Office; Shean, Garret; Victor Yamade, Mission Energy; WEBWORK, WEBWORK
Date: 6/22/2007 11:01 AM
Subject: Walnut Creek Evid Hearing
CC: Bruce Johnston, Chemtreat; Dan Horan, Three Valley MWD; Dick Simmons, Los Angeles County; Donald Sachs, Industry Chamber of Commerce; Fred Diamond, RUSD; Guillermo Arreola, City of Puente; Jennifer Wu, URS Corporation; Ken Coats, AQMD; Ken Deck, Rowland Water District; Mae Chu, Hsi Lai Temple/B.L.I.A; Mike Coniglio, Puretec; Milton Howard, Panoche Energy Center; Ronald Whittemore, Industry MFRS Council; Tim Smith, Wellhead Electric Company
Attachments: Bruce Johnston, Chemtreat; Dan Horan, Three Valley MWD; Dick Simmons, Los Angeles County; Donald Sachs, Industry Chamber of Commerce; Fred Diamond, RUSD; Guillermo Arreola, City of Puente; Jennifer Wu, URS Corporation; Ken Coats, AQMD; Ken Deck, Rowland Water District; Mae Chu, Hsi Lai Temple/B.L.I.A; Mike Coniglio, Puretec; Milton Howard, Panoche Energy Center; Ronald Whittemore, Industry MFRS Council; Tim Smith, Wellhead Electric Company

State of
California

Memorandum

DOCKET	
05-AFC-2	
DATE	JUN 22 2007
RECD	JUN 22 2007

To: All Parties, Walnut Creek AFC (05-AFC-2)
Docket Unit

Date : June 22, 2007

From : California Energy Commission - Garret Shean, Hearing Officer
1516 Ninth Street
Sacramento CA 95814-5512

Subject: Evidentiary Hearing

In anticipation of the Evidentiary Hearing, the Hearing Office has reviewed the analyses in the sections of the FSA for possible use in the PMPD. We have discovered potential deficiencies with some of the cumulative impact analyses as to pending and reasonably foreseeable projects, and we have questions regarding some of the proposed Conditions of Certification,

all of which may affect the conduct of the Evidentiary Hearing next Wednesday afternoon, the 27th.

The Committee has directed that we advise the parties of these matters in advance of the Evidentiary Hearing so that the parties may address them.

Cumulative Impacts

CEQA requires that the environmental documentation consider not only the impact of the project upon the existing setting but also the potential for a cumulative effect due to pending or reasonably foreseeable future projects. We believe that the evidentiary record will be insufficient for a legally adequate PMPD in four FSA topic areas that neither state nor imply that pending and reasonably foreseeable future projects were considered. Further, there are three additional FSA sections with incomplete cumulative analysis. These sections rely for the most part on conclusory statements without supporting data and analyses. The attached table summarizes our review.

Since the totality of the evidentiary record is available to prepare a legally adequate PMPD, we have examined the AFC to determine whether its analysis of pending and reasonably foreseeable future projects is sufficient to support a finding that there are no potential cumulative impacts. The AFC does not cure the deficiencies in these FSA topics. To date, we have not examined the data responses from the Applicant for more cumulative impact discussion in each of the inadequate topics.

Conditions of Certification

A thorough review of the proposed Conditions of Certification reveals that there are some which (1) are unclear or internally not consistent, (2) lack a clear nexus between the breadth of the mitigation imposed and the scope of potential impact, or (3) have become unnecessarily burdensome compared to prior versions of the Condition as used by the Commission. We have prepared and attached a list of the particular Conditions.

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**WALNUT CREEK E.P. FSA PENDING/REASONABLY FORESEEABLE
PROJECT CUMULATIVE IMPACT ANALYSIS**

<i>SUBJECT</i>	<i>Discussion of pending/reas. foreseeable proj?</i>	<i>Are there such projects?</i>	<i>Types of projects mentioned</i>	<i>Covered adequately By AFC?</i>	<i>Sufficient for PMPD?</i>
Air quality	Pg. 4.1-46	Yes	Point sources; area sources	No	Yes
Biology	Pg. 4.2-9	None that would impact biology	No other power plants in area	Yes	Yes
Cultural	Pg. 4.3-16	Yes, but none within .5 mi	61 projects, types unspecified	No	Yes
Hazmat	No	Not addressed	n/a	No	No
Land use	Pg. 4.5-5	None that are in-consistent with General Plan	Commercial, approved by City of Industry	Yes	Yes
Noise/vib	Pg. 4.6-14 incomplete	"few"	Not described	No	?
Public Hlth	No	Not addressed	n/a	No	No
Socioecon	Pg. 4.8-8 incomplete—limited to power plants only	Yes	Vernon Power-construction workforce	No	?
Soil/water	Pg. 4.9-19	None that would result in cumulative impact	None	Soil-yes; Water-no	Yes
Traf/transp	Pg. 4.10-15	Yes	Road construction; unspecified other	Yes	Yes
Transmis-sion Safety	No	Not addressed	n/a	No	No
Visual	Pg 4.12-10	Yes	Container storage yard; unspecified industrial	Yes	Yes
Waste	No	Not addressed	n/a	No	No
Worker safety	Pg 4.14-12 Incomplete—limited to LACFD	Yes	None	No	?
Geo/paleo	Pg 5.2-11	Yes	New construction and renovation	No	Yes

Questions Re Walnut Creek Conditions of Certification

HAZ-7 provides that delivery trucks must use the CPM-approved route and that any change to that route must be CPM approved. The FSA discussion states that the ammonia delivery route must be approved by the CHP. If the route in this condition is to be changed, who has the determinative approval of the route? Could the CPM overrule the route approved by the CHP? Is that what the proposed Condition means? Should the Condition incorporate the role of the CHP in the event of a proposed route change?

HAZ-9 (sub. 10) provides for “Security guards [plural] present 24 hours per day...” Does that mean multiple guards present for each of the 24 hours per day? Or, does it mean that there shall a guard, not the same guard, present 24 hours per day (such as three 8-hour shifts)?

PAL-4 provides that all workers shall be subject to the WEAP. What is the nexus between the described potential impacts and needed mitigation that would require workers not involved in earthmoving or excavation to be required to take this WEAP training?

SOIL & WATER-6 provides that proposed changes in water supply that would increase potable water use over 95 AF are to be approved by the CPM, whereas the verification states the approval of changes is to be by the Energy Commission. Which is it, the CPM or the Commissioners?

SOIL & WATER-7 provides that the annual compliance report is to include the current-year annual water use information, plus the water use for the prior two years. Presumably, prior annual water use has been previously reported. What justifies requiring the project owner refiling (twice) information that is already in the possession of the CPM?

NOISE-4 provides that the maximum noise is to be measured at street intersections near M2 “or” M4. Given that these are two different locations, affecting nearby residents differently due to intervening structures, what is the justification for the condition being “either/or?” Shouldn’t the condition be at intersections near M2 “and” M4?

CULT-5 provides that all workers are subject to the WEAP training. What is the nexus of potential impact to mitigation that would require WEAP training to other than workers grading or excavating at the project?

CULT-5 also provides that the WEAP training is required for all new workers “prior to and during the start of site mobilization” through “construction,” which means throughout the entire period prior to operation based upon the general definitions in the Compliance section. What justifies WEAP training throughout construction, particularly after the conclusion of grading and excavation, given

that the only potential impact described by the FSA section is to unknown, buried resources? After excavation for foundations and underground piping, etc., and any isolated landscaping requiring deep hole digging, is there any justification for continued WEAP training, since the workers doing excavation, etc., would presumably discontinue employment at the site? Since no vegetative screening is required for visual impact mitigation, there does not appear a landscaping requirement that would include further grading or deep holes. So why is landscaping included?

WORKER SAFETY-5 provides for defibrillator and a program to ensure that workers are properly trained in its use. There is no specification of the number or other responsibilities of such workers. Is it to be all workers? If not, then what is number of workers, presumably for each shift, and from what class or classes of employee are the workers to be trained.



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**ELECTRONIC PROOF OF SERVICE LIST
and ELECTRONIC DISTRIBUTION LIST
Revised 04/23/07**

WALNUT CREEK ENERGY PARK
APPLICATION FOR CERTIFICATION
DOCKET NO. 05-AFC-2

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I declare that I transmitted the foregoing document via e-mail to the above named on the date indicated thereby. I declare under penalty of perjury that the foregoing is true and correct.

<Garret Shean, Hearing Officer>

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