CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

October 17, 2008 (916) 651-2020

DOCKET
08-AFC-7
DATE OCT 17 2008
RECD. OCT 21 2008

Howard Seligman, Esq.
Seligman & Willett, Inc.
7540 Shoreline Drive
Stockton, California 95219

***Re**: GWF Tracy Combined Cycle Project, CEC Docket No. 08-AFC-7*

Dear Mr. Seligman:

We are in receipt of your letter dated October 14, 2008, requesting intervention in the above-referenced matter on behalf of your clients. Although the letter was not presented in the form of a Petition to Intervene, we will treat it as such because it does contain all the required elements of a Petition to Intervene.

Section 1716.5 of our regulations requires that we give the parties a reasonable time to review the petition and respond if they wish. Thus, you may expect to receive the committee's order either granting or denying the petition within 10 days. My understanding is that you have been made aware of the Informational Hearing and Site Visit which will take place on October 23, 2008.

Sincerely,

Raoul A. Renaud
Hearing Adviser

CC: California Energy Commission Docket Office
GWF Tracy Proof of Service List

SELIGMAN & WILLETT, INC.

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A Professional Law Corporation
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01-AFC-16C

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08-AFC-7
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October 14, 2008

VIA FEDERAL EXPRESS

Public Adviser
California Energy Commission
1516 Ninth Street, MS-15
Sacramento CA 95814

Re: Docket No. 08-AFC-7 and 01-AFC-16
Application for Certification for GWF Tracy
Combined Cycle Power Plant Project

Dear Commission Members:

This office represents Charles Tuso, Steve Tuso and Annette Elissagaray, the co-owners of an approximately 275-acre parcel of agricultural property immediately adjacent to the site of the proposed project. This letter is being written, requesting that my clients be considered Intervenors in the pending application process.

The purpose of this communication, on their behalf as such Intervenors, is to provide their initial written opposition to the pending application. As part of their opposition my clients are requesting that an environmental assessment of the project be mandated.

As reported at the time in which the Tracy Peaker Plant ("TPP") was considered and approved by the Commission my clients have and continue to own and use their property for agricultural purposes for more than sixty years. That property also contains four single family dwellings, two of which are occupied, for more than fifty years, as the residences of the families of Charles Tuso and Steve Tuso. My clients continue to contemplate, as previously communicated to the Commission, the possible use of their property for purposes other than agriculture. The proposed expansion would further adversely affect their ability to do so.

Their initial comments, as Intervenors, consist of the following:

1. Contrary to the prior approval by the Commission of the TPP, this project violates the provisions of Section 9-605.6 of the San Joaquin County Development Title and, as such, establishes a significantly detrimental effect on the agricultural activities in the vicinity and on the Applicant's property.

At the time of the TPP approval the Commission determined that the TPP was to be considered a temporary use, in compliance with Section 9-605.6. The proposed project, however, which converts the TPP to a power plant essentially, eliminates its use as temporary. The property can no longer be rehabilitated with either agricultural production or a permitted use in an agricultural zone as required by that Section. As a result the pending proposal is in direct violation of the San Joaquin County requirements.

2. The proposed facilities increase the height of the improvements from 110 feet, as previously approved, to 140 feet. This increase further exacerbates the adverse visual impact that would result from the proposal. This added increase in height, in addition to other claims set forth in this communication, provides further negative impacts on the quality of life and the right to the quiet enjoyment to which my clients are entitled in the use and occupancy of their property, and further undermines their ability to cause different uses to their property.

3. The proposed construction of a new Heat Recovery Steam Generator System, the addition of a 145MW steam turbine generator and the addition of an air-cooled condenser need to be analyzed for possible environmental impacts by a source other than the Applicant.

4. The cumulative environmental impacts resulting from the expansion of the TPP to a power plant regarding issues of air quality, air pollution and noise pollution need to be analyzed by someone other than the Applicant. It should be noted, as discussed at the time of the TPP approval that this proposed project is in close proximity to an existing glass plant and bio-mass plant. While earlier conclusions on the foregoing were made at the time of TPP approval this again needs to be analyzed as a result of the expansion of the project to a power plant.

5. While Applicant claims that there will be no new hazardous materials at the site, Applicant does not state that there will be no increase in hazardous materials. This also needs to be appropriately evaluated.

6. There is no demonstrated need for this expanded project. Applicant acknowledges it has no contract for the purchase of the proposed additional generation output. This application does not even indicate the extent to which there has been any use of the present TPP since it became operational.

7. To what extent will there be an increase in traffic and number of employees and visitors to the site resulting from a power plant as opposed to the TPP? This too could adversely impact the rights of my clients to the quiet enjoyment of their property.

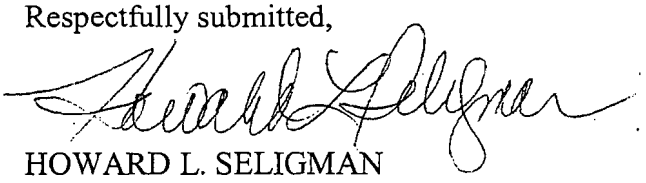
8. With the conversion to a power plant additional issues involving traffic circulation, traffic use and disruption to my clients' use of their property will occur.

9. The proposed expansion to a power plant, as requested by Applicant, raises additional concerns regarding the quality of life and quiet enjoyment of their property to which my clients are entitled. While they opposed the TPP they, along with others, and this Commission, were and are entitled to expect that the Commission's decision was based on Applicant's representations that the site would not become a power plant as presently contemplated and that the TPP use would be limited solely to the times in which the State of California needed additional power, not as a full power plant. This was to be a temporary as opposed to a permanent use. It was further represented by Applicant that the property would be returned to agricultural use at the expiration of no more than 30 years. This proposal essentially contradicts each of those representations.

10. My clients want to emphasize that their quiet enjoyment of their property and the development of alternative uses are further adversely impacted by the conversion from a TPP to a power plant. Such an expansion provides further negative impact to the value of their property.

11. One wonders whether the TPP project, only in existence for a few years, was just a subterfuge by the Applicant to get its foot in the door at this site and to obtain TPP approval by the Commission while all along intending to have this site ultimately used as a power plant as now proposed.

Respectfully submitted,



HOWARD L. SELIGMAN

HLS:jg
cc: Client

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION FOR THE *GWF TRACY COMBINED CYCLE POWER PLANT PROJECT*	Docket No. 08-AFC-7 **PROOF OF SERVICE** ***(Revised 10/17/2008)***

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 01-AFC-16
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512
docket@energy.state.ca.us

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DECLARATION OF SERVICE

I, Maggie Read, declare that on October 17, 2008, I deposited copies of the attached Letter to Mr. Howard Seligman, in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

MAGGIE READ
Hearing Office

Attachment

Application for Certification for the ***GWF TRACY COMBINED CYCLE POWER PLANT PROJECT***	Docket No. 08-AFC-7 PROOF OF SERVICE

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 01-AFC-16
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Sacramento, CA 95814-5512
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DECLARATION OF SERVICE

I, Jeanne Glass, declare that on October 14, 2008, I deposited copies of the attached **Opposition Letter to Proposed Power Plant**, in the United States mail at Stockton, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

In addition, I, Jeanne Glass, declare that on October 14, 2008, I deposited copies of the attached **Opposition Letter to Proposed Power Plant**, via Federal Express Priority Overnight, at Stockton, California prepaid and addressed to: **Public Adviser's Office, 1516 Ninth Street, MS-15, Sacramento, CA 95814-5512 and CALIFORNIA ENERGY COMMISSION, Attn: Docket No. 01-AFC-16, 1516 Ninth Street, MS-15, Sacramento, CA 95814-5512.**

I declare under penalty of perjury that the foregoing is true and correct.

Jeanne Glass