

DOCKET
11-AFC-3

DATE MAY 10 2012

RECD. MAY 11 2012

QUAIL BRUSH GENERATION PROJECT

(11-AFC-3)

Sunset Greens Data Requests Set One SG1-

May 10, 2012

Quail Brush Genco, LLC

Ms. Lori Ziebart

Project Manager

9405 Arrowpoint Blvd.

Charlotte, NC 28273

Re: QBGP (11-AFC-3), Intervener Sunset Greens HOA Data Request, Set One

Pursuant to Title 20, California Code of Regulations, section 1716, we request information for the items in the enclosed data requests. The information is requested in order to 1) adequately evaluate the impacts of the proposed project on the environment, 2) determine if adequate and reason alternatives exist that have not been considered, 3) determine if the analyses were performed consistent with standard practices and guidelines, 4) determine what impacts and to what extent those impacts will or may affect the health, safety, welfare of surrounding neighbors and neighborhoods and those residents property and property values, 5) determine if mitigation measures are reasonable, sincere, attainable and will meet mitigation objectives if any. These data requests are made in the areas of:

If you are unable to provide the requested information, or object to providing the information, please send notification to us and the Committee within 20 days of this notice and include any and all reasons and justifications in law or fact for not providing such information.

In answering and responding to these Data Requests reference to "You, your, or applicant" means and includes Cogentrix or any staff, employee, contractor, contractee, subcontractor, or agent of the applicants in whom resides such information or to whom reference is sought to answer such data request. Please provide for each such data request who answered such question; and if any reference is sought, to whom such reference was sought.

You may contact our HOA President at connorphil48@yahoo.com or (913) 704-9963 if you have any question regarding the enclosed data requests.

Respectfully submitted,

/s/

Phillip M. Connor

President, SGHOA

QBGP (11-AFC-3), Intervener Sunset Greens HOA Data Request, Set One

Background: General Objections to the proposed plant

On or about January 10, 2012 Intervener SGHOA prepared and filed a list of seven objections to the project. Those objections were posted to the CEC website on January 11, 2012.

SG Data Request 1. Please state all facts or objections to Reason #1 of SGHOA to Oppose the QBPP.

SG Data Request 2. Please state all facts or objections to Reason #2 of SGHOA to Oppose the QBPP.

SG Data Request 3. Please state all facts or objections to Reason #3 of SGHOA to Oppose the QBPP.

SG Data Request 4. Please state all facts or objections to Reason #4 of SGHOA to Oppose the QBPP.

SG Data Request 5. Please state all facts or objections to Reason #5 of SGHOA to Oppose the QBPP.

SG Data Request 6. Please state all facts or objections to Reason #6 of SGHOA to Oppose the QBPP.

SG Data Request 7. Please state all facts or objections to Reason #7 of SGHOA to Oppose the QBPP.

Technical Area: Alternatives

Background

Section 3.2 No Project Alternative states: "If the No Project Alternative is selected, the Applicant would not receive authorization to construct and operate a new power generation facility." Interveners agree with this conclusion, but are concerned that Applicant only included issues pertaining to energy use and the energy market. Nowhere in the consideration of NO Alternative is there the consideration of the impacts and availability of other energy sources from approved and pending projects before the CEC at this time; or other means, like solar, to satisfy any purported peaker plant needs. More importantly since applicant states that amounts of highly dangerous including cancer causing chemicals will be the by-products of its natural gas combustion, the applicant has not considered the environmental, health, safety and property value impacts in the no alternative section. In addition as to SGHOA and the thousands of surrounding residents in military housing, other HOAs, individual homes and rentals, there is only one exit from our homes to safety in the event of fire or calamity caused by the proposed project; and that is the bottleneck of streets that lead to Junipero Serra Trail. The proposed project is in a Very High Fire Hazard Severity Zone; and had a fire that would have destroyed the proposed plant approximately three years ago.

SG Data Request 8. Please state why applicant has not considered approved and pending projects before the CEC in its No Project Alternative considerations regarding market availability of energy.

SG Data Request 9. Please state why the applicant has not considered the danger of cancer causing chemicals emitting from its smokestacks in the No Project Alternative considerations.

SG Data Request 10. Please state why the applicant has not considered the use of the land for a solar field as an alternative in the No project Alternative section or in other alternative sections.

SG Data Request 11. Please state why the applicant in the No Project Alternative section did not consider the lives and safety of surrounding residents who only have one exit in the event of a highly probable fire at, by, near or caused by the proposed project.

SG Data Request 12. Please state why the applicant in the No Project Alternative section did not consider the integrity of one of Southern California resident's major assets: Mission Trails Regional Park (MTRP).

SG Data Request 13. Please state why the applicant in the No Project Alternative section did not consider the impacts of property values of the neighborhoods surrounding the proposed project.

SG Data Request 14. Please state why the applicant in the No Project Alternative section did not consider the military families residing in military housing (on Bushy Hill Dr.), elderly, veterans, infants and the disabled within visual pollution, chemical pollution plumes, dangerous fire zones, and no escape areas surrounding the proposed project.

SG Data Request 15. Please state whether applicant admits that under the No Project Alternative, the land uses would remain as they are which is among other uses an open space overlay zone.

Technical Area: Land Use

Background

Applicant proposes to build the proposed project Four-tenths of a mile (704 yards- just over two football fields) from existing homes and only .35 of a mile (616 yards-less than two football fields including the end zones) from West Hills Park which includes Little League fields. To accomplish this feat applicant must acquire the land proposed for this project from private citizens and have the City of San Diego grant the extraordinary request that present open space and low density residential be rezoned to Heavy Industrial; that the long term plan to keep the site as open space as a buffer to MTRP be subverted by amending a long ago created Community Plan; and that any over-lay zones, MTRP expansion, or expansions of the Land fill be set aside and overturned.

SG Data Request 16. Does the Applicant agree that if the City of San Diego rezones the land proposed for the project, then any other heavy industrial use within San Diego zoning ordinances may be permitted?

SG Data Request 17. Does the Applicant agree that the construction of the project will impact the neighborhoods of Santee by diverting traffic through residential streets to avoid Mast Blvd.?

SG Data Request 18. Please state with precision within 25 feet where the natural gas pipeline lateral may be located within the City of Santee.

SG Data Request 19. Please state what impacts the proposed project would have on MTRP: 1) public use of the Park, 2) public access to the Park in each the following areas:

- a. Hiking in the MTRPk nearest the proposed plant;
- b. Use of the Kumeyaay Campgrounds;
- c. Use of Kumeyaay Lake;
- d. Use of the Equestrian Center;
- e. Use of the Eastern most portion of the Park bounded by Junipero Serra Trail, West Hills Parkway, and the San Diego River.

Technical Area: Noise

Background

The Applicant contends that the noise from the project will not be louder than a garbage disposal, a food blender at 2 feet away or a pneumatic drill from 50 feet away. Table 4.3-1 And the applicant concedes that this baseline noise is "loud" at 80 dba. Since all things are relative, and while Interveners do not concede the issue of noise, such levels if they were acceptable during daylight hours would not be acceptable during late night or evening hours. For instance, a member who ran a pneumatic drill 50 feet away from another owner in our HOA would be warned and then fined. We have no such recourse here in one of the quietest areas of urban San Diego County. In preparing these questions children are playing some 100 feet away, people are swimming 50 feet away and birds are chirping and talking less than 20 feet outside the window. These are just some of the intrinsic values of living in Sunset Greens. Based upon the sound levels set forth in the Table above, we could no longer hear these sounds of peace and tranquility.

SG Data Request 20. If the proposed plant exceeded the noise levels set forth in your application, what recourse would the neighbors have?

SG Data Request 21. If the proposed plant exceeded the noise levels set forth in your application, would the Applicant agree to limit the usage of the plant to reasonable hours of 7am to 7 pm.?

SG Data Request 22. If the proposed plant exceeded the noise levels set forth in your application, would the Applicant agree to indemnify the homeowners for violation of their quiet enjoyment of their homes?

SG Data Request 23. Why was the Wasila engine chosen for the proposed plant if there are more modern and quieter engines available?

Technical Area: Traffic and Transportation

Background

Significant Criteria list areas in which (among other) impacts may be considered significant; there is a substantial increase in traffic, exceed a level of service standard for designated roads, inadequate emergency access, or inadequate parking capacity. There is a substantial difference between construction deliveries to the site and deliveries of huge engines to the site. If in any of these areas, if significant impacts are found, the proposed project application must be denied.

SG Data Request 24. Do you agree that the traffic study referenced in the application was taken at a time when the economic downturn substantially reduced the traffic at the intersection of Mast Blvd and Highway 52?

SG Data Request 25. Do you agree that the construction at the site will result in a substantial increase in traffic on residential streets in Santee?

SG Data Request 26. Do you agree that the construction of the natural gas pipeline that will cross Mast Blvd. will result in a substantial increase in traffic on residential streets in Santee?

SG Data Request 27. Why did the Applicant's Traffic and Transportation section fail to consider the delivery of the eleven engines and the tanks stated in 4.5.2.2 to the site and the ensuing snarls of traffic on Mast Blvd.

SG Data Request 28. How will the engines and the tanks be delivered to the site?

SG Data Request 29. How will emergency vehicles access Mast Blvd., HWY 52, or residential streets during construction snarls?

SG Data Request 30. Is there an existing agreement or option to park workers at 7927 Mission Gorge Rd in the City of Santee; if so please provide a copy of such agreement or option.

SG Data Request 31. If there is any agreement for construction parking at 7927 Mission Gorge Rd. or any other location, who represented the Applicant in any negotiations, considerations, or brokerage; and, who represented the land owners of any site for construction parking.

SG Data Request 32. On what date did any negotiations or contacts for construction parking begin and who represented the Applicant; and, who represented the land owners of any site for construction parking.

SG Data Request 33. Have any payments been made under the purported agreement for construction parking at 7927 Mission Gorge Rd or any other location; if so, state to who payment was made and on what date or dates.

SG Data Request 34. Do any purported agreements for construction parking at 7927 Mission Gorge Rd or any other location, give the property owner or owners the option to cancel the agreement; if so state what is the basis, reason or time when such agreement could be cancelled.

Technical Area: Visual Resources

Background

The primary difference between this proposed project and the Sycamore Landfill is that the Landfill is located far from the Mast Blvd. level line of sight; and while it can be seen from far a mile away from the Landfill on the north facing hills on the south west corner of Santee for the vast majority of neighbors, the Landfill is not visible. The proposed plant would dominate the skyline and the entrance to Santee along Hwy 52 regardless of how far it was moved north. The applicant admits at 4.5-3 that the viewshed is within 2.5 miles of the site. The stark difference between a heavy industrial power plant and the open space on which it supposes to supplant is the most shocking and incredible, almost unspeakable, difference between what is and what is proposed. The quiet, peace and darkness that envelops the park-like site of the proposed plant tranquilizes the surrounding working-class areas. This makes the proposed site of the project, the resource that it is for the public. High voltage lines are well north of the site. They are currently minor visual impairments alluringly imploring the Commission to not approve the project and thus hammer the eye with more proximate monsters of metal like demons from War of the Worlds. The Applicant admits in Table 4.5-1 that four of the seven viewpoints they chose are “High” visual impact areas; and that the others are moderate and one low. There will be substantial alteration of the viewshed to construct the proposed project.

SG Data Request 35. Considering that there will be substantial alteration of the site, the project would be replacing pristine open space, additional light and background light will be added to the night, what is the basis for concluding that the viewpoint in Table 4.5-1 Project Sight Visibility is “low”? Who made such an assessment or conclusion?

SG Data Request 36. Who is the expert if any, retained to evaluate visual resources? Has that person or business ever been retained and performed a visual resources assessment or evaluation in any other form before May 10, 2012 in any application before the CEC? If so, please state for each such service, if any visual impairment to visual resources has ever been found in any case, project or application before the CEC and if so what application.

SG Data Request 37. Do you admit that one any or all of the following comprise an impairment of the proposed projects visual resources:

- a. The 370 feet long, 70 feet wide and 32 feet high engine hall;
- b. The adjacent 2-story 92 feet long, 44 feet wide, and 32 feet high electrical, control, offices, and admin equipment building;
- c. 11 4 feet diameter by 100 feet high smoke stacks referred to as exhaust stacks;
- d. Multiple large tanks of water which will contain at least 6500 ga. Of water;
- e. Fuel, lubricating oils and other liquid storage tanks.

- f. The facility switch yard
- g. The 1.5 mile long transmission line, 70 feet high;
- h. The utility switch yard at SDG&E connect point.

SG Data Request 38. For the each of the tank or tanks of water, fuel, lubricating oils and other liquid storage tanks state:

- a. Capacity of each;
- b. Dimensions of each;
- c. How such tanks would be transported to the site.

Technical Area: Socio-Economic

Background

This Intervener is apparently located in Census Tract 166.06 based upon the selected data of the Applicant from 1999, over thirteen years inaccurate. This data dramatically misstates the economic status of this Census tract in 2012. A substantial number of the owners are or have been delinquent on their Homeowner Assessments. Several have been short sold, foreclosed or are about to be. The primary reason for this local depression is the loss of jobs by one or both earners and the loss of value of condos which at their peak over four years ago sold for over \$350,000; now one recent prime location sold for about \$130,000. These Interveners contend that the data supplied by the Applicants is useless for evaluation of Socio-Economic and the Applicants could do a much better job of complying with State and Federal law.

SG Data Request 39. Why was 1999 selected for data in the Socio-Economic Justice category?

SG Data Request 40. Will the Applicant agree to redo the Socio-Economic section based upon 2010 Census data?

SG Data Request 41. Will the Applicant agree that the loss of more than 50% of real estate value is proof of a depressed Census Tract that is a basis for Socio-Economic justice? If not, what % of loss of property value would the Applicant agree is proof of a Census Tract entitled to Socio-Economic Justice?

SG Data Request 42. Will the Applicant agree that the poverty rate in Census Tract 166.06 is great than it was in 1999?

SG Data Request 43. Will the Applicant agree that a percentage of population below the Poverty Level of 7.8% or greater in a Census Tract is a valid basis for a presumption of the need for economic justice? If not, at what percent would the Applicant agree to a Census Tract having the basis for economic justice?

SG Data Request 44. Does the Applicant agree that Census Tract 95.04 in which the project is proposed, has Median Household Income (MHI) that is skewed by wealthy absentee owners with whom the

Applicant proposes to further enrich? If not, what does the Applicant base the MHI upon in Census Tract 95.04?

Other Areas

SG Data Request 45. Please explain the disparity between the assertion in 2.3.14 at page 2-22 of the Application that: "All of the plant's capacity will be sold to SDG&E under the terms of the PPA between the Applicant and SDG&E. " And the Assertion that the proposed plant is a "Peaker Plant", particularly since if all the capacity of the plant is controlled by SDG&E the Applicant has no basis to represent to the public that it is a Peaker Plant.

SG Data Request 46. Who proposed that all the capacity of the plant be sold to SDG&E and when?

SG Data Request 47. Please provide a copy of the Power Purchase Tolling Agreement with SDG&E.

SG Data Request 48. Please provide a copy of the 2009 Request for Offers cited in Applicant's Application section 2.1 page 2-1.

SG Data Request 49. What relationship, if any, is Applicant to Goldman Sachs?

SG Data Request 50. Are the Employees of Applicant bound by the Business Principles and Business Standards of Goldman Sachs? Are contractors like the Project Manager bound by the Business Principles and Business Standards of Goldman Sachs?

SG Data Request 51. Did anyone on the List of Preparers Table 5-1 work with, supervise or otherwise assist in any way Arthur T. Willden or James Willden prior to their pleas of guilty, or involved in any way in the services to AvalonBay Communities or San Jose Water Conservation Co. prior to 2009?

SG Data Request 52. Did anyone on the List of Preparers Table 5-1 work with, supervise, appear as a witness, get interviewed by any legal counsel or otherwise assist in any way anyone at Tetra Tech or themselves involved with Lowe's Home Centers v. Tetra Tech Inc. et al No. 10-00067 in the U.S. District Court for the District of New Hampshire?

End Set One SG Data Request

Declaration of Service

I, Phillip M. Connor, Declare that on May 13, 2012, I served and filed a copy of the Sunset Greens Data Request Set one, dated May 10, 2012. This document is accompanied by the most recent Proof of Service List, located on the page for this project at:

<http://www.energy.ca.gov/sitingcases/quailbrush/index.html>

The document has been sent to the other parties in this proceeding (as show on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred".

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an electronic copy to the e-mail address below (preferred method): **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION-DOCKET UNIT

Attn: Docket No. 11-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, Section 1720:

- Served by delivering on this date one electronic copy by email, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
Michael.levy@energy.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age 18 years and not a party to the proceeding.

/s/ Phillip M. Connor



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 *QUAIL BRUSH GENERATION PROJECT***

DOCKET NO. 11-AFC-03
PROOF OF SERVICE
(Revised 4/12/2012)

APPLICANT

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DECLARATION OF SERVICE

I, _____, declare that on _____, 2012, I served and filed a copy of the _____, dated _____, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at:

<http://www.energy.ca.gov/sitingcases/quailbrush/index.html>.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- ___ Served electronically to all e-mail addresses on the Proof of Service list;
- ___ Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- ___ by sending an electronic copy to the e-mail address below (preferred method); **OR**
- ___ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- ___ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

CALIFORNIA ENERGY COMMISSION

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



TO: *All Parties*

Date: April 13, 2012

RE: **QUAIL BRUSH GENERATION PROJECT**

Proof of Service List

Docket No. 11-AFC-03

Attached is the **newly revised** Proof of Service List for the above-mentioned project, current as of April 12, 2012.

Energy Commission regulations (Cal. Code Regs., tit. 20, § 1210) require, in addition to any electronic service, that a paper copy be served in person or by first class mail except where a party requests to receive an electronic copy when one is available. Individuals and groups on the Proof of Service list who prefer to receive filings by e-mail and do not require a paper copy shall inform the Hearing Adviser assigned to the proceeding.

The Proof of Service list for this matter will delineate those individuals and groups and it is sufficient to serve those individuals with an e-mailed copy only. Those not so delineated must be served with a paper copy in addition to any e-mailed copy that the filing party chooses to provide. Signatures may be indicated on the electronic copy by "**Original Signed By**" or similar words.

Unless otherwise specified in a regulation, all materials filed with the Commission must also be filed with the Docket Unit. (Cal. Code Regs., tit. 20, § 1209(d).) Some regulations require filing with the Commission's Chief Counsel instead of the Docket Unit. For example, Section 1720 requires a petition for reconsideration to be filed with the Chief Counsel and served on the parties. Service on the attorney representing Commission staff does not satisfy this requirement. This Proof of Service form is not appropriate for use when filing a document with the Chief Counsel under Title 20, sections 1231 (Complaint and Request for Investigation) or 2506 (Petition for Inspection or Copying of Confidential Records). The Public Advisor can answer any questions related to filing under these sections.

New addition(s) to the Proof of Service are indicated in **bold font** and marked with an asterisk (*). Additionally, if two or more persons are listed on a Proof of Service List

with a single address, only one physical copy of a document need be mailed to the address.

Use this newly revised list for all future filings and submittals. This Proof of Service List will also be available on the Commission's Project Web Site at:

<http://www.energy.ca.gov/sitingcases/quailbrush/index.html>

Please review the information and contact me at rmavalos@energy.ca.gov or (916) 654-3893, if you would like to be removed from the Proof of Service or if there are any changes to your contact information.

RoseMary Avalos
Hearing Adviser's Office