

California Energy Commission

DOCKETED

11-AFC-3

TN # 67087

SEPT 11 2012

Quail Brush Genco, LLC
Ms. Lori Ziebart
Project Manager
9405 Arrowpoint Boulevard
Charlotte, NC 28273

September 11, 2012

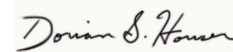
Regarding: **QUAIL BRUSH GENERATION PROJECT (11-AFC-3), Dorian Houser's (Intervenor) Data Requests, 28 through 35**

Pursuant to Title 20, California Code of Regulations, section 1716, I 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 reasonable alternatives exist that have not been considered, 3) determine if the analyses were performed consistent with standard practices and guidelines, and to 4) determine if mitigation measures will meet mitigation objectives. These data requests are made in the areas of Alternatives and Air Quality.

If you are unable to provide the requested information, or object to providing the information, please send notification me and the Committee within 20 days receipt of this notice. Please provide reasons or justifications for not providing the information.

Please contact me at dhouser@cox.net or 619-889-5170 should you have questions regarding the enclosed data request.

Sincerely,



Dorian S. Houser, Ph.D.

HISTORY

Dorian S. Houser submitted a request for additional data that was docketed on May 7, 2012 (hereafter *Initial Data Request*). In the initial response to the data request (Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-3, Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27), the Applicant objected to 18 of the 27 data requests and replied that they were unable to respond to four others at the time of the response (docketed May 29, 2012). In the following document, additional data requests are made based upon the information provided in the original Application for Certification (hereafter AFC), the supplement to the Application for Certification (hereafter *AFC supplement*), the second and third supplements to the AFC (hereafter *Supplement 2* and *Supplement 3*, respectively), and the Initial Response to Dorian Houser's Intervenor Data Requests, 1 through 27 (hereafter *Initial Response*).

ANALYSIS OF ALTERNATIVES

Background: A prior data request, Data Request #1 from Dorian Houser's Initial Data Request, requested information on alternative sites within the SDG&E territory that satisfy the basic requirements for plant construction and operation. The applicant objected to the data request as not being reasonably necessary for the CEC to render a decision on the AFC and that the request is not required under CEQA. Citing the *California Native Plant Society v. City of Santa Cruz*, 177 Cal. App. 4th 957, 993, the Applicant supported their objection by noting that the prior ruling concluded that CEQA did not "expressly require a discussion of alternative project locations." However, in the current AFC project the no-action alternative and a change in project location are the only alternatives that are discussed as reasonable. Alternative power generation and fuel technologies were deemed infeasible in the Supplement to the AFC.

The Applicant states in the response to CEC Staff data requests docketed July 20, 2012 that it does not believe it has the ability to "purchase, lease or obtain an easement over any portion of the Alternative A," thus bringing into question whether Alternative A can be a reasonable alternative. In the Supplement to the AFC the Applicant also states that it does not have site control over locations of Alternatives B or C, thus bringing into question how these locations are considered "reasonable" alternatives when site control is uncertain but critical to project advancement should an Alternative be duly selected. This issue is notable in Supplement 3 as well, as none of the Proposed Projects or Alternatives (Table 3.1-2) are on locations where site control has been obtained.

The Applicant states that pass-through costs and environmental impacts associated with the development of new infrastructure are both *likely* to increase at other alternative locations not similarly situated near the desired infrastructure (Initial Response, p.2). Cost should not be a factor in an environmental assessment, particularly if an acceptable increase in costs can offset environmental risk or degradation. Furthermore, since no alternative sites were discussed outside of that co-located with Sycamore Landfill, the statement as to an increased environmental impact arising from the use of an alternative must be accepted at face value without a demonstrated justification of the claim. In addition,

the Applicant responds that with the implementation of mitigation no significant impacts will occur at the proposed site and that the lack of impacts necessarily narrows the range of available alternatives. This statement seems premature given that the CEC still awaits final analyses related to potential environmental impacts (e.g. air quality analysis).

The Applicant concludes in its response to Data Request #1 in Dorian Houser's Initial Data Request that no alternative sites within SDG&E's territory were similarly situated in relation to the required infrastructure to meet the project objectives. However, no consolidated information is presented in the AFC or supplement that permits adequate, independent evaluation of this claim.

28. Data Request: Please provide a map of the SDG&E territory with overlays displaying the following features: 1) property zoned appropriately for operation of the proposed facility; 2) the location of existing natural gas lines; 3) the location of transmission lines; 4) and the location of other natural gas power generation facilities, whether active, slated for retirement, or retired.

Background: Two of the four project objectives stated within the AFC are to:

- Use a site that is commercially available, including control for reasonable access and linear facility rights-of-way;
- Develop a site that has compatible zoning, compatible adjacent land uses, and is located away from sensitive receptors.

Commercial availability typically refers to items or real property that has been promoted or advertised by the owner for purchase or leased use. At the time of this data request, there is no indication that the proposed sites (preferred or alternative) are commercially available with reasonable access and linear facility rights-of-way. Furthermore, the preferred alternative does not currently have compatible zoning for project development. Based on the objectives set forth in the AFC, compatible zoning and commercial availability are necessary for the proposed alternatives to serve as reasonable alternatives. It is understood that the Applicant is seeking rezoning of the preferred site from the City of San Diego; however, information on commercial availability is less definitive but equally important in determining whether the proposal is reasonable or feasible.

29. Data Request: Please provide additional information on how and whether the proposed sites are deemed "commercially available."

Background: One of the four project objectives stated within the AFC is to:

- Develop a site that has compatible zoning, compatible adjacent land uses, and is located away from sensitive receptors.

This objective states that the site will be located “away” from sensitive receptors. This is a qualitative statement and subjective in nature and the ambiguity of the statement is troubling given that pollutants from the proposed plant are subject to airborne distribution. The site is located less than 1 mile away from nine sensitive receptors in the adjacent City of Santee as indicated in Table 4.8-1 of the AFC. This includes West Hills High School (approximately 3,500 feet from the proposed location of the facility) and the adjacent athletics field (approximately 3,000 feet from the proposed location of the facility). Other sensitive receptors are located at further distances beyond the approximately 1 mile limit presented in Table 4.8-1 of the AFC. Additional information is requested to validate claims by the Applicant that the project alternatives meet the criteria established in the basic objectives.

30. Data Request: Please provide a quantitative definition for the phrase, “away from sensitive receptors,” and the justification for the definition as it relates to air quality and human health impacts.

AIR QUALITY

Background: The Applicant states in its response to Data Request #2 from the Initial Data Request by Dorian S. Houser that ambient air quality data was compiled from “San Diego APCD, the California Air Resources Board, and the U.S. Environmental Protection Agency (EPA), for the *Santee local* and regional area.” It is unclear where the air quality data local to the City of Santee is contained in the AFC or its supplements.

31. Data Request: Please indicate where in the AFC or its supplements that the air quality information for the Santee local region is provided. If not yet given, please provide this information.

Background: The Applicant states in its response to Data Request #3 in the Initial Data Request by Dorian S. Houser that wind speed measurements at the project location and within the adjacent City of Santee are not required because the information is “not relevant to the proceeding and is not reasonably necessary for the CEC to render a decision as required by Section 1716(b).” Given that sensitive receptors are primarily affected by localized air quality conditions, that the neighboring City of Santee with nearly 60,000 residents is immediately adjacent to the proposed site, and that air pollutant dispersion will occur prominently over the City of Santee, it seems difficult to argue from a perspective of biological and health impacts that the prior request is neither relevant to the proceedings nor required for the CEC to render an informed decision. The background to Data Request #3 in the Initial Data Request lists the topographical features of concern and their unknown potential for causing turbulent air flow on a local scale, a factor which could affect model predictions of criterion pollutant dispersion particularly if down-flow patterns emerge within the vicinity of the proposed site. Caution argues that due diligence be paid to localized features that can affect localized conditions, including the localized disruption of wind patterns by nearby terrain complexities. Indeed, this is consistent with the general approach to assessing the potential for environmental degradation and human health

consequences, which argues for increased awareness in light of uncertainty in either measurement or impact.

In the AFC and the response to Data Request #3 in the Initial Data Request, the Applicant states repeatedly that the location of the proposed site and the adjacent areas are similar in topography to the Kearny Mesa monitoring site. They further claim that wind speed and direction data from the Kearny Mesa site are representative of the proposed site and the City of Santee. No qualitative or quantitative comparisons are provided in the AFC or its supplements that justify either claim. To the contrary, the proposed site has been designated as “complex terrain” while the Kearny Mesa monitoring site is in terrain that is classified as “simple terrain,” as reported by the San Diego Air Pollution Control District to me in response to a request for publicly available information (Appendix 1). Contrary to the statement by the Applicant in the Initial Response that “the same mesoscale and localized geographic and topographic features that influence wind flow patterns at the meteorological monitoring site also influence the wind flow patterns at the proposed project site (p.5),” the terrain features have potential to create down-flow effects, channeling (particularly into the City of Santee), and turbulent wind flow, all of which could affect pollutant dispersion. Prior modeling efforts demonstrate the potential significant impact of local topographical features (3).

No descriptions of the impact that the variability and scale of topography will have on air quality and pollutant dispersion between the two sites is provided by which the disruption to wind speed, direction, and volatility can be determined and no analysis of the potential for disrupted wind flow is given. Indeed, the potential for channeling and down-flow (and potential up-down valley effects) is not addressed with the currently utilized data. These factors could have significant impacts on the City of Santee, which lies within the depression of the surrounding terrain. Furthermore, no data are provided from the Santee location that allows a comparison suitable for concluding site representativeness on a scale that impacts the adjacent community and its sensitive receptors. The conclusion that the terrain features do not significantly affect local wind conditions and air pollutant dispersion is questionably subjective, at best, and arbitrary and capricious otherwise.

Data Request 32: Please provide the quantitative or qualitative comparisons of meteorological and air quality data used to determine that the significant, local features at the project site and surrounding the City of Santee result in on-site wind speed and direction profiles and criteria pollutant concentrations that are represented by the Kearny Mesa monitoring location. If no such information exists, please collect meteorological data at the proposed project site to either justify claims of representativeness or that can be used to more accurately model pollutant dispersion.

Background: The Applicant states that the meteorological data requirement originates from the Clean Air Act in Section 165(e)(1), which requires an analysis “of the ambient air quality at the proposed site and in areas which may be affected by emissions from such facility for each pollutant subject to regulation under [the Act] which will be emitted from such facility” (Initial Response, p.4). The Clean Air

Act in Section 165(e)(2) further states that, "...analysis required by this subsection shall include continuous air quality monitoring data gathered for purposes of determining whether emissions from such facility will exceed the maximum allowable increases or the maximum allowable concentration permitted under this part. Such data shall be gathered over a period of one calendar year preceding the date of application for a permit under this part unless the State, in accordance with regulations promulgated by the Administrator, determines that a complete and adequate analysis for such purposes may be accomplished in a shorter period. The results of such analysis shall be available at the time of the public hearing on the application for such permit."

These actions have not been completed and the argument for representative data from the Kearny Mesa monitoring site is reasonably unsupported based on the information provided by the applicant.

Data Request 34: Please obtain air quality data at the proposed site and provide it to the relevant regulatory agencies and public in order to meet the requirements of the Clean Air Act and to provide better local-scale information relevant to the calculation of potential NAQS exceedances.

Background: Data Request #6 (Initial Data Request) requested that justification be provided for the use of CTSCREEN over AERMOD, the EPA preferred air quality model for simple and complex terrain, and the rationale behind why it produced pollutant concentrations 4-5 times lower than the first estimates performed with AERMOD. A similar data request was previously provided by the CEC Staff (Data Request 15, "Staff's Data Requests, 1-58"). In the Data Request Responses to Set 1 for the Quail Brush Generation Project (11-AFC-3) provided by the Applicant to the CEC, which was docketed March 8, 2012, the Applicant states that CTDMPLUS and CTSCREEN "remain as the preferred models for use in complex terrain" as discussed in 40 CFR Part 51, Revision to the Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions; Final Rule (November 9, 2005). The Applicant makes the same statement in its Initial Response to Dorian Houser's Data Request #6 and further concludes that "the background discussion and underlying premise of this request (Data Request 6) overstate the conclusion of the quoted portion of 40 CFR Part 51 and appear to misunderstand the bases that have been provided for the use of CTDMPLUS and CTSCREEN."

The particular issue of the use of CTSCREEN instead of AERMOD, after AERMOD returned values exceeding the NAQS, is extremely relevant to the determination of whether air pollutants will be in or out of compliance. A justification for the use of CTSCREEN is warranted because of 1) the large difference in predicted pollutant concentrations and 2) and the fact that Appendix W clearly states AERMOD is both the EPA preferred model and performs well in complex terrain. The Applicant contends that CTSCREEN and CTDMPLUS "remain as the preferred models for use in complex terrain" (Initial Response, p.5). Insufficient referencing on the part of the Applicant with respect to Appendix W or the scientific literature is provided to support this claim. Indeed, the claim seems contrary to the available evidence.

Data Request 34: Please provide references that support the statement that CTSCREEN and CTDMPPLUS remain as the preferred models for use in complex terrain. References may be to the scientific literature or to Appendix W. As Appendix W is a rather large document, please provide the specific page number and wording that supports the EPA recommendation for use of CTSCREEN over AERMOD.

Background: CTDMPPLUS and AERMOD are both refined models. CTSCREEN is the screening version of CTDMPPLUS which can be used when complete meteorological data are not available. CTSCREEN should produce the most conservative estimates of contaminant accumulation, i.e. the worst case scenario, based on its meteorological assumptions. AERMOD, as the preferred EPA model for pollutant dispersion, has been tested more than any other air model (17 data sets) and its performance has been compared against multiple regulatory models, including CTDMPPLUS (1-3). AERMOD outperforms CTDMPPLUS in almost every direct comparison. AERMOD predictions come closer to the 1-to-1 line of the quantile–quantile plot of model-predicted vs. observed concentrations for multiple terrain and meteorological combinations (3), even when considering the Tracy data set upon which CTDMPPLUS was benchmarked. By comparison, CTDMPPLUS consistently over-predicts observed pollutant concentrations. Thus, it is difficult to understand how CTSCREEN produced PM₁₀ and PM_{2.5} concentrations 4-5 times lower than AERMOD when CTSCREEN provides the worst case predictions relative to CTDMPPLUS and CTDMPPLUS over-predicts concentrations relative to AERMOD predictions. Understanding why the model outputs are contrary to expectation is relevant to determining the adequacy of the AFC analysis and further information on this topic is requested.

Data Request 35: Please provide specific information on the factors in the CTSCREEN modeling that substantially lessened the predicted pollutant concentrations obtained with the EPA preferred air quality model (AERMOD).

References

1. Environmental Protection Agency. (2003). "AERMOD: Latest Features and Evaluation Results." Report# EPA-454/R-03-003.
2. Environmental Protection Agency. (2003). "Comparison of Regulatory Design Concentrations: AERMOD vs ISCST3, CTDMPPLUS, ISC-PRIME." Report# EPA-454/R-03-002.
3. Perry, S. G., Cimorelli, A. J., Paine, R. J., Brode, R. W., Weil, J. C., Venkatram, A., Wilson, R. B., Lee, R. F. and Peters, W. D. (2005). AERMOD: A dispersion model for industrial source applications. Part II. Model performance against 17 field study databases. *J. Appl. Meteorol.* 44:694-708.

Appendix 1

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from: Dorian Houser dorian.houser@nmmpfoundation.org
to: Robert.Kard@sdcounty.ca.gov
date: Sun, Aug 26, 2012 at 7:44 PM
subject: Terrain characterization of Overland Avenue monitoring site
mailed-by: nmmpfoundation.org

Dear Mr. Kard -

I have talked with you on the phone in the past and I appreciate your prior assistance. I have a question regarding the Overland Avenue air quality monitoring station in Kearny Mesa. Could you tell me whether the terrain type at the monitoring location is characterized as "simple terrain" or "complex terrain?" I would appreciate any information you or one of your personnel could provide as well as the justification for the classification. I know you are busy and I appreciate your assistance with this question.

Sincerely,
Dorian Houser

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Dorian S. Houser, Ph.D.
Director of Conservation and Biological Research
National Marine Mammal Foundation

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from: Kard, Robert Robert.Kard@sdcounty.ca.gov
to: Dorian Houser <dorian.houser@nmmpfoundation.org>
cc: "Gould, Cynthia" <Cynthia.Gould@sdcounty.ca.gov>
date: Mon, Aug 27, 2012 at 11:08 AM
subject: RE: Terrain characterization of Overland Avenue monitoring site
mailed-by: sdcounty.ca.gov

Dear Dr. Houser,

Although you sent your information request directly to me, I have forwarded it to Cynthia Gould here at the APCD because she handles all of our public information requests and she will provide the information you seek.

Should you have questions about the process, her contact information is as follows:

Cynthia R. Gould
Air Pollution Control Aide, APCD
10124 Old Grove Road
San Diego, CA 92131
work: 858-586-2618

fax: 858-586-2601

Regards,
Bob Kard

Robert J. Kard
Air Pollution Control Officer
San Diego County Air Pollution Control District
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=====
from: Brick, Bill Bill.Brick@sdcounty.ca.gov
to: "dorian.houser@nmmpfoundation.org" <dorian.houser@nmmpfoundation.org>
cc: "Gould, Cynthia" <Cynthia.Gould@sdcounty.ca.gov>, "Desiena, Ralph"
<Ralph.Desiena@sdcounty.ca.gov>, "Kard, Robert" <Robert.Kard@sdcounty.ca.gov>,
"Hossain, Mahmood" <Mahmood.Hossain@sdcounty.ca.gov>
date: Tue, Aug 28, 2012 at 12:36 PM
subject: Request for Public Records - Kearny Mesa Monitoring Station
mailed-by: sdcounty.ca.gov

Mr. Houser – my name is Bill Brick with the San Diego Air Pollution Control District, and I am responding to your Request for Public Records regarding the Kearny Mesa monitoring station (submitted on August 27, 2012).

For the Kearny Mesa monitoring station, the District considers this location to be “simple terrain”.

Respectfully,
Bill
William C. Brick, CCM
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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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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 8/14/2012)**

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DECLARATION OF SERVICE

I, Dorian S. Houser, declare that on September 11, 2012, I served and filed a copy of the **QUAIL BRUSH GENERATION PROJECT (11-AFC-3), Dorian Houser's (Intervenor) Data Requests, 28 through 35**, dated **September 11, 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 firstclass 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 marked **"hard copy required"** or where no e-mail address is provided.

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-03
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, § 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
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.
