

Ella Foley Gannon
Direct Phone: +1.415.393.2572
Direct Fax: +1.415.262.9251
ella.gannon@bingham.com

November 29, 2012

Siting Committee
Raoul Renaud, Hearing Officer
Eric Solorio, Project Manager
California Energy Commission
Docket No. 11-AFC-3
1516 9th Street
Sacramento, CA 95814

**Re: Cogentrix Quail Brush Generation Project - Docket Number 11-AFC-03,
Response to Rudy Reyes' Intervenor Data Requests, 1 through 46**

Docket Clerk:

Pursuant to the provisions of Title 20, California Code of Regulations, and on behalf of Quail Brush Genco, LLC, a wholly owned subsidiary of Cogentrix Energy, LLC, Bingham McCutchen LLP hereby submits the Response to Rudy Reyes' Intervenor Data Requests, 1 through 46. The remaining data requests were addressed in the Applicant's 20-day initial response to these data requests docketed on November 19, 2012. The Quail Brush Generation Project is a 100 megawatt natural gas fired electric generation peaking facility to be located in the City of San Diego, California.

If you have any questions regarding this submittal, please contact Rick Neff at (704) 525-3800 or me at (415) 393-2572.

Sincerely yours,



Ella Foley Gannon

cc: Lori Ziebart, Cogentrix
John Collins, Cogentrix
Rick Neff, Cogentrix
Proof of Service List

Beijing
Boston
Frankfurt
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, CA
94111-4067

T +1.415.393.2000

F +1.415.393.2286

bingham.com

A/75268987.1



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 11/19/2012)

APPLICANT

Cogentrix Energy, LLC
C. Richard "Rick" Neff, Vice President
Environmental, Health & Safety
9405 Arrowpoint Boulevard
Charlotte, NC 28273
rickneff@kogentrix.com

Cogentrix Energy, LLC
John Collins, VP Development
Lori Ziebart, Project Manager
Quail Brush Generation Project
9405 Arrowpoint Blvd.
Charlotte, NC 28273
johncollins@kogentrix.com
loriziebart@kogentrix.com

APPLICANT'S CONSULTANTS

Tetra Tech EC, Inc.
Connie Farmer
Sr. Environmental Project Manager
143 Union Boulevard, Suite 1010
Lakewood, CO 80228
connie.farmer@tetrattech.com

Tetra Tech EC, Inc.
Barry McDonald
VP Solar Energy Development
17885 Von Karmen Avenue, Ste. 500
Irvine, CA 92614-6213
barry.mcdonald@tetrattech.com

Tetra Tech EC, Inc.
Sarah McCall
Sr. Environmental Planner
143 Union Boulevard, Suite 1010
Lakewood, CO 80228
sarah.mccall@tetrattech.com

COUNSEL FOR APPLICANT

Bingham McCutchen LLP
Ella Foley Gannon
Camarin Madigan
Three Embarcadero Center
San Francisco, CA 94111-4067
ella.gannon@bingham.com
camarin.madigan@bingham.com

INTERVENORS

Roslind Varghese
9360 Leticia Drive
Santee, CA 92071
roslindv@gmail.com

Rudy Reyes
8655 Graves Avenue, #117
Santee, CA 92071
rryes2777@hotmail.com

Dorian S. Houser
7951 Shantung Drive
Santee, CA 92071
dhouser@cox.net

Kevin Brewster
8502 Mesa Heights Road
Santee, CA 92071
lzpup@yahoo.com

Phillip M. Connor
Sunset Greens Home Owners
Association
8752 Wahl Street
Santee, CA 92071
connorphil48@yahoo.com

Mr. Rob Simpson, CEO
Helping Hand Tools
1901 First Avenue, Suite 219
San Diego, CA 92101
rob@redwoodrob.com

*Sierra Club, San Diego Chapter
Robert W. Wright
c/o Law Office of Robert W. Wright
716 Castro Street
Solana Beach, CA 92075
bob.wright@mac.com

HomeFed Fanita Rancho, LLC
Jeffrey A. Chine
Heather S. Riley
Allen Matkins Leck Gamble
Mallory & Natsis LLP
501 West Broadway, 15th Floor
San Diego, CA 92101
jchine@allenmatkins.com
hriley@allenmatkins.com
jkaup@allenmatkins.com
vhoy@allenmatkins.com

Preserve Wild Santee
Van Collinsworth
9222 Lake Canyon Road
Santee, CA 92071
savefanita@cox.net

Center for Biological Diversity
John Buse
Aruna Prabhala
351 California Street, Suite 600
San Francisco, CA 94104
jbuse@biologicaldiversity.org
aprabhala@biologicaldiversity.org

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

City of Santee
Department of Development Services
Melanie Kush
Director of Planning
10601 Magnolia Avenue, Bldg. 4
Santee, CA 92071
mkush@ci.santee.ca.us

*indicates change

INTERESTED AGENCIES (cont.)

Morris E. Dye
Development Services Dept.
City of San Diego
1222 First Avenue, MS 501
San Diego, CA 92101
mdye@sandiego.gov

Mindy Fogg
Land Use Environmental Planner
Advance Planning
County of San Diego
Department of Planning & Land Use
5510 Overland Avenue, Suite 310
San Diego, CA 92123
mindy.fogg@sdcountry.ca.gov

ENERGY COMMISSION –
DECISIONMAKERS

KAREN DOUGLAS
Commissioner and
Presiding Member
karen.douglas@energy.ca.gov

ANDREW McALLISTER
Commissioner and
Associate Member
andrew.mcallister@energy.ca.gov

Raoul Renaud
Hearing Adviser
raoul.renaud@energy.ca.gov

Eileen Allen
Commissioners' Technical
Adviser for Facility Siting
eileen.allen@energy.ca.gov

Galen Lemei
Advisor to Commissioner Douglas
galen.lemei@energy.ca.gov

Jennifer Nelson
Advisor to Commissioner Douglas
jennifer.nelson@energy.ca.gov

David Hungerford
Advisor to Commissioner McAllister
david.hungerford@energy.ca.gov

Patrick Saxton
Advisor to Commissioner McAllister
patrick.saxton@energy.ca.gov

ENERGY COMMISSION STAFF

Eric Solorio
Project Manager
eric.solorio@energy.ca.gov

Stephen Adams
Staff Counsel
stephen.adams@energy.ca.gov

ENERGY COMMISSION –
PUBLIC ADVISER

Jennifer Jennings
Public Adviser's Office
publicadviser@energy.ca.gov

DECLARATION OF SERVICE

I, Margaret Pavao, declare that on November 29, 2012, I served and filed copies of the attached **Response to Rudy Reyes' Intervenor Data Requests, 1 through 46**, dated November 29, 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 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, 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.



Margaret Pavao



Quail Brush Genco, LLC

A Project Company of Cogentrix Energy, LLC

9405 Arrowpoint Boulevard
Charlotte, North Carolina 28273-8110
(704) 525-3800
(704) 525-9934 – Fax

November 29, 2012

Siting Committee
Raoul Renaud, Hearing Officer
Eric Solorio, Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

**Re: Quail Brush Generation Project (11-AFC-03)
Response to Rudy Reyes' Intervenor Data Requests, 1 through 46**

Dear Members of the Siting Committee and Mr. Solorio:

In response to the Rudy Reyes' (Intervenor) Data Requests, 1 through 46, Quail Brush Generation Project (Quail Brush) provided an initial response to Requests 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 20, 21, 22, 23, 25, 26, 28, 30, 31, 32, 33, 34, 35, 37, 37 [sic], 38, 39, 40, 41, 42, 43, 44, 45 and 46 on November 19, 2012. Quail Brush provides responses to Requests 13, 15, 16, 17, 18, 19, 24, 27, 29, 33, and 36 below.

13. Data Request: Please provide information as to why Sample Test Pits were not made to see true impact on cultural resources? Without STP we have no real data to reference!

Response:

The land surface in the Project APE is exposed bedrock from the Eocene-aged Stadium Conglomerate that is at least 34 million years old. There is very little development of soil that would date to the period of human occupation here, that is, the last 14,000 years or so. These facts were recognized by the archaeologists on the staffs of the City of San Diego and the Commission when they devised the vegetation clearing protocol used in the survey. The protocol they directed recognizes that trying to excavate shovel test pits in a 34 million year-old gravel and cobble deposit would not yield archaeological information.

15. Data Request: Please provide information as to the validation of the "low" impact level of significance on the cite? As it is surrounded by Archaeological cites and resources.

Response:

The judgment that the project would have a low level of impact on cultural resources is based on two facts:

1. The inventory identified few cultural resources in the Project APE and none of those are evaluated as eligible for the California Register of Historic Resources.
2. As the land surface in the Project APE is of Eocene age (34 million years old or older) there is virtually no possibility of buried cultural resources.

16. Data Request: Please provide information as to the validation of the "low" impact on the educational cultural resources if the cite was considered without the plant constructed?

Response:

See response to Data Request 15.

17. Data Request: Please provide information as to the validation of the "Based on the analysis presented in this report, the Project may have significant impacts on unidentified cultural resources, including historical resources and unique archaeological resources, as a result of ground-disturbing activities. The presence or absence of human remains, . . . is unknown." Yet the "low" impact?

Response:

There is always the possibility that a project may affect unidentified cultural resources, and the wording of this statement reflects that. But based on the results of the inventory, which showed there are few resources present, none of which are eligible for the California Register of Historical Resources (CRHR), the judgment is that the probability of unidentified resources is low and any discovered are not likely to be CRHR eligible. The survey did not find any human remains but there is always the possibility that some could be present. The judgment is that the probability of finding any is low, based on the fact that none have been seen so far and burials would not be expected in a 34 million year-old gravel and cobble deposit.

18. Data Request: Please provide the information as to the crew size used to complete survey?

Response:

Please see section 3.3 of the technical report docketed on August 26, 2011.

19. Data Request: Please provide the information as to the "potential" for human remains as the local natives were used as slaves on cite for building of the Historic Dam?

Response:

The Mission Dam is located approximately one mile southwest of the Project area. There is historic and archaeological evidence that the Native American workers who built the dam lived in a camp immediately adjacent to the dam and the San Diego River. There is no evidence that any activity related to construction of the dam took place in the Project APE.

24. Data Request: Please provide information as to Why was ST-5 not used for continuous Noise survey? Is it not closer to cite?

Response:

The purpose of the long-term measurement is to assess diurnal variations. Use of the closest receptor in terms of distance to the site is not requisite to accomplish this goal. All measurements were completed in accordance with standard Commission measurement protocols.

27. Data Request: Please provide information as to the levels of hertz sound emitted by proposed plant?

Response:

Please refer to AFC Section 4.3.3.3 Operational Noise Impacts docketed on August 25, 2011 for a description of the sources and associated noise generating characteristics.

29. Data Request: Please present information as to the potential for air traffic from Gillispie field falling on Power plant?

Response:

Please refer to Supplement 3 of the AFC, Section 2.3.8 docketed on August 30, 2012. Additionally, FAA Safety Risk Analysis of Aircraft Overflight of Industrial Exhaust Plumes, June 2006 states, "Historical statistical data analysis concluded that the accident/incident rate for overflights of exhaust plumes to be in the order of 109 or less. Since the target level of safety (TLS) for GA activities was determined to be 107 the probability of an accident or incident from overflight of an exhaust plume is considerably less than the required TLS. Since the TLS is satisfied, the likelihood of an accident or incident caused by overflight of an exhaust is acceptably small." "The safety risk analysis team performed their analysis of the predictive risks associated with the plumes and determined the effects of the hazards as low, or in the green section of the risk matrix. As a result of this assessment, the risk associated with plumes is deemed acceptable without restriction, limitation, or further mitigation."

33. Data Request: Please present information regarding if a fire does start at plant how long will it realistically "power down" the plant to start firefighting?

Response:

The required time to shut-down a Wartsila 20V34CG engine from full load is 1 minute. If required, a single shut-down command can be issued for all engines simultaneously. This ability allows the removal of all generation in one minute even if the facility is operating at 100% capacity. Once the engine shut-down has occurred, the incoming electrical breaker can be immediately opened to disconnect the facility from the grid thus de-energizing all power within the plant. At that same time, the natural gas flow to the facility will be stopped via a control valve located at the gas regulating and metering station. The post engine shut-down events of de-energizing and cutting-off the natural gas flow will take an additional minute.

The proposed Project will operate under a Wildfire Response Emergency Action Plan ("EAP"). A draft of this plan was docketed on July 9, 2012. The purpose of the EAP is to facilitate and organize employer and employee actions during a wildfire emergency. Plant response and notification procedures will be conducted as described in the EAP.

36. Data Request: Please present information as to safety being granted to Communities at the west end of Santee and the West Hills High School are within 800 yards of the site? Fire Chief Perry stated that fires would be past the plant within five to ten minutes at the most. What will the applicant do to ensure these peoples safety?

Response:

Wildfire response will be provided by local fire-fighting departments. As stated by the SDFD Fire Marshal and Commission Staff, electrical generating facilities have an excellent history of not being a fire hazard. The greater threat to the community is from a wildfire whose cause has nothing to do with the Facility. The Facility will operate under a comprehensive fire protection plan which will be approved by the Fire Marshal. In case of a wildfire, the facility will protect human health, the electrical grid and the environment under the procedures described in the Draft Wildfire Response Emergency Action Plan, docketed on July 9, 2012.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge.

Regards,



C. Richard Neff
Vice President

cc: Docket (11-AFC-3)