

April 14, 2013

Dear Commissioners, ladies and gentlemen:

I would like to address issues related to the application to site the Quail Brush power plant in East Elliott, an environmentally conserved area in the Multiple Species Conservation Program. The applicant, following the Public Utilities Commission denial of approval for the Quail Brush project, now is attempting to forestall action by the Energy Commission to act against its chosen East Elliott location. Quail Brush has filed a request for a twelve-month suspension. The applicant says a suspension “will provide time for the Applicant and SDG&E to analyze commercial opportunities for the Project in light of the current or changed circumstances...”

Insofar as the Public Utilities Commission denied approval of the Quail Brush Project without prejudice to a renewed application for a Purchase Power Tolling Agreement for possible power need in 2018, there is no reason for a “suspension”. The applicant has ample time to determine what form a new application for a purchase power agreement will take.

I also refer you to Intervenor Sunset Greens Homeowner Association’s objection to applicant’s request for project suspension. Sunset Greens objects that the 12- month suspension is too short, pointing out that the Public Utilities Commission states that a resubmitted application is to be “amended to match the *timing* of any such need.” As stated, the first possible need is anticipated for 2018.

As mentioned, the basis for the Quail Brush Project request for an extension is the Public Utilities Commission’s finding against Quail Brush. This is a thorough and well-reasoned decision. I will refer to it. The full decision may be seen at:

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M060/K898/60898567.PDF>

Page 15. “As discussed above, we no longer find a need for additional resources to meet local and system resource adequacy requirements as soon as 2015. Under all record forecasts, whether as originally presented by the parties or as adjusted in this decision, there is no need for the new capacity represented by the PPTAs until early 2018, and then only under the assumption that the Encina OTC units retire. It would not be reasonable to pay for that excess capacity for four of the 20-year terms of the PPTAs associated with Pio Pico Energy Center and Quail Brush Energy Project. Accordingly, we deny approval of the Pio Pico Energy Center and Quail Brush Energy Project PPTAs, without prejudice to a renewed application for their approval, if amended to match the timing of the identified need.”

And on Page 26, Conclusions of Law:

“It is not reasonable to authorize the Quail Brush Energy Project and the Pio Pico Energy Center PPTAs to purchase local capacity beginning in 2014, when there is no need to for incremental local capacity until 2018, four years into the 20-year terms of the PPTAs. “

Early on in these proceedings I spoke to an SDG&E executive. He stated this item of wisdom (to paraphrase): The Quail Brush applicant had great latitude where they sited a proposed power plant, but once they had settled on a specific location, the applicant would fight vigorously to justify and preserve it. The simple economic reason is that the applicant would have spent considerable funds to justify its chosen site, and would therefore act to preserve its investment.

In this case, the applicant made a determination that it would propose a power plant site in the middle of environmentally conserved property, the East Elliott Planning Area. The area of about 2850 acres was declared as open space habitat area when the East Elliott Community Plan was published in 1998.

The area is prominent because it provides habitat for endangered plant and animal species. The City of Santee is downwind of the proposed power plant site. Schools, hospitals, and residences surround the site. The area is divided into privately owned parcels of various size zoned for very low residential development (RS1-8 or about 1 dwelling unit per acre). Because of the environmental sensitivity of the land, the City justifies allowing only 1 dwelling unit per parcel.

The probable reason the applicant sought to place a power plant in an environmentally conserved area is economic. Land for conservation is cheap compared to land in an appropriate industrial zoned area. The City was last acquiring land in East Elliott to incorporate into the Multiple Species Conservation Program for \$35,000 an acre. Land in an industrial area might be valued at 10 times that figure.

Mission Trails Regional Park adjoins East Elliott. Mission Trails Regional Park, considered a treasure in the City of San Diego, is the largest intra-city wilderness park in California. It is among the largest in the country. Open areas underneath the Spring Canyon and Oak Canyon overpasses provide passages between the park and East Elliott for the movement of animal species. It is noteworthy that the City is processing the Mission Trails Regional Park Plan Update. That plan is to expand Mission Trails Regional Park into East Elliott.

Had the applicant not thrown down the gauntlet to challenge the existing conserved land use plan and its proximity to schools, hospitals, and residences, and Mission Trails Regional Park, it is unlikely that such a furor of public opposition would have been provoked.

The Quail Brush applicant is in a frontal assault on the fundamental purpose of zoning regulations. Zoning laws are to prevent incompatible use in the same area. It is to keep

automotive salvage yards from being built next to schools and residences. The outcry from the public is a direct outcome of the Quail Brush power plant (longer than a football field, 3 stories high, with 11 gas-fired massive generators, and 11 smokestacks) being placed in an area zoned for open space, within an environmentally conserved area, and for very low-density residential use.

Even if the inner sanctum of Quail Brush administrators learned that they had made a colossal misjudgment by attempting to site their power plant in East Elliott, true to the prediction of the SDG&E executive, Quail Brush fought like the furies to justify its proposal and investment. We saw this within the City of San Diego when the company lobbied aggressively for its proposed power plant. They did so with community groups, the City Planning Commission, and finally the City Council. They donated money to local interests. And they ran (and continue to run) advertisements justifying Quail Brush. Ultimately they succeeded only in coalescing community and government leaders and officials to reject the Quail Brush plant. Community leaders spoke out against it. The Planning Commission voted against the plant, the Santee City Council voted against it, as did the San Diego City Council.

If the Quail Brush promoter, Cogentrix, is insensitive to violating local laws, ordinances and regulations, and offending public opinion, the then sole owners of Cogentrix, Goldman-Sachs, Inc., may not have been. In the midst of these proceedings, Goldman-Sachs, a public company, liquidated Cogentrix to a private investment group. A presumed benefit of having done so is to avoid significant financial losses if the Quail Brush plant did not obtain approval. It is reasonable to assume that Goldman-Sachs also avoided a public relations disaster.

We now have a scenario in which Quail Brush promoters wish for a 12-month suspension of the Quail Brush project before the California Energy Commission. The handwriting is on the wall. The Public Utilities Commission, San Diego City leaders, the Planning Commission and the City Council, has turned down the Quail Brush project. Cogentrix wishes to avoid being turned down by the California Energy Commission. They have asked that the Energy Commission “suspend” action for 12-months. That is, for the Energy Commission to tie its own hands.

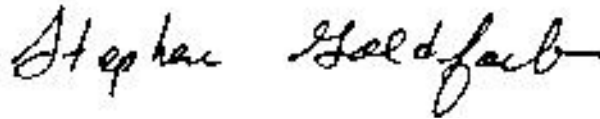
We think that a recent cautiously worded statement by SDG&E president and chief operating officer Niggli is telling. In a Notice of Ex-Parte Communication of San Diego Gas and Electric Company dated February 25, 2013, it says:

“Mr. Niggli also noted that SDG&E understood the issues surrounding Quail Brush contract. He explained that approval of the Quail Brush contract is fully supported on the record of the case; however he understood the siting concerns and noted that, if the Quail Brush contract is not approved by the Commission in the current proceeding, the project & SDG&Es ratepayers may benefit from an opportunity to submit an application at a later date as is written in the Alternate Proposed Decision (referring to the denial of the Quail Brush application).

“Mr. Niggli also suggested that, subject to the final decision from the California Energy commission on the pending Quail Brush application and subject to the developer’s concurrence, a different site proposal may be part of a new application.” (Underline added). In other words, SDG&E’s president and chief operating officer is signaling that location of a power plant to an area other than the environmentally conserved East Elliott Planning Area is entirely feasible, and that SDG&E is open to that possibility, even with all of the caveats he inserts in his statement.

We think that the Energy Commission’s first priority should be to decline the Quail Brush application for siting in the East Elliott Planning Area. We also think that this may be doing SDG&E and Cogentrix a great favor by helping them release themselves from their untenable decision at the outset to site the power plant in East Elliott. It will save the company large sums of money. It will end the community furor that has been stirred by this unwarranted attempt to site a power plant in the midst of environmentally protected open space, near Mission Trails Regional Park, close to schools, hospitals, residences, and the City of Santee.

Sincerely,

A handwritten signature in black ink that reads "Stephen Goldfarb". The signature is written in a cursive, slightly slanted style.

Stephen Goldfarb