

THE METCALF FILES

Internal California Energy Commission documents obtained through the California Public Records Act. These internal documents center around the alternative site testimony and the creation of the executive summary for the CEC's Final Staff Assessment of the Metcalf Energy Center.

Cast of Characters

- Bob Therkelsen: CEC Deputy Director of the Energy Facilities Siting & Environmental Protection Division
- Paul Richins: CEC Project Manager for the Metcalf Energy Center
- Dick Ratliff: CEC Senior Staff Counsel
- Kerry Willis: CEC Staff Counsel
- Arlene Ichien: CEC Assistant Chief Counsel
- Gary Walker: CEC Staff Member responsible for preparing the alternative site testimony for the Metcalf Energy Center
- Rick Tyler: CEC Staff Member
- Eric Knight: CEC Staff Member responsible for preparing the land use testimony for the Metcalf Energy Center
- Peter Mackin: CAISO senior grid planning engineer

Note: Red annotations were added to the PDF file to aid navigation.

This document is available at <http://www.santateresacitizen.org/docs/mecfiles.pdf>

Memo from N. Kisabuli describing how he was taken off the MEC project. Note: This is the only memo in this PDF file not received through the public records act

Date: March 2, 2001

Dear CEC Commissioners,

I am writing this letter to you to explain what I have experience as a CEC staff employce in the last year of my employment working for the CEC and set the record straight. I have been working for the CEC for over 17 years and the last seven years I have been doing Noise analysis for power plant certification

I did the Noise and Facility Design on the Metcalf Energy Center, at the PSA stage and Facility Design at the FSA stage.

Soon after the Noise PSA was released I found myself defending my noise analysis like I have never had to do before. I come to find out that it was political pressure being put on the staff to make the FSA more favorable towards the applicant. The one thing that really concerns me was the fact the applicant wanted to insulate the nearest home instead of insulating the MEC power plant. In all the analysis I have done on Noise I have always asked the applicant to insulate the facility to make it much quieter for the surrounding area's instead of insulating the nearest receptor (Pasantino Home). I do remember shortly after the PSA was released that I had a conference call with Steve Baker, Applicant and the Applicants Consultant's regarding the Noise issue.

The general conversation was the Applicant wanted to insulate the nearest home and I disagreed as the Noise expert. Soon after that conference call I found out I was taken off the MEC application for noise and was replaced by an outside paid consultant. I also want to mention that the FSA was exactly the same as my PSA report except for the part that agrees with the Applicant to insulate the home instead of the MEC Power Plant. There were a few insignificant other changes but essentially the same.

Again, I just wanted you to know of my concerns and to set the record straight for all those involved with the MEC project.

Sincerely,



M. Kisabuli

CONFIDENTIAL: ATTORNEY/CLIENT PRIVILEGE

Memo from
CEC attorney
criticizing the
alternatives
testimony

TO: Bob Therkelsen
Bob Haussler
Arlene Ichien
Kerry Willis
Paul Richins
Gary Walker

FROM: Dick Ratliff

Subject: Alternative Testimony Draft

Overview of the Problem

I hope we can all agree that it is important that Staff's testimony be convincing, cohesive, internally consistent, and unbiased. Unbiased because Staff does not have an axe to grind in these cases. It's role is unique in this sense, and separates it directly from the applicant, intervenors, and often from local agencies.

The problem I have with the alternatives testimony is that does not meet the above criteria. It is internally inconsistent, inconsistent with the testimony of other staff witnesses, inconsistent with analysis from prior cases, and inconsistent with the policy testimony that will recommend findings of overriding considerations. I believe these inconsistencies are the result of belabored efforts to reach a conclusion that the MEC site is unsuitable, and that the plant should not be sited. In my view, any pretense to objectivity is lost as the analysis strives to exaggerate and editorialize project impacts, while significantly downplaying uncertainties about both the environmental impacts and feasibility of the staff alternatives and minimizing project benefits.

Important inconsistencies and confusion are introduced to the reader on the first page, where the testimony states unequivocally that staff's alternatives are feasible and mitigate one or more significant impacts, and that the Commission, should it decide to approve the project, should thus make override findings. **Such override findings cannot be made under CEQA in such circumstances; the only possible result is for the agency to deny the permit.** This outcome would not disturb me if I thought the alternatives testimony fairly described the feasibility of the site alternatives and their impacts, and fairly described the drawbacks of denying a project with time-critical reliability benefits when no other projects are even on the horizon.

There is no such fair comparison. The testimony would deny the project for its visual impacts on the grounds that feasible alternatives avoid this impact. Yet the following analysis itself suggests that the feasibility of the alternatives is at best qualified and that they may themselves have significant impacts and controversies. Moreover, the testimony goes on to contradict the ISO/Staff LSE testimony regarding the importance of the reliability benefits in the near term.

The bias and internally contradictory nature of this testimony will cause Staff and the Commission protracted anguish if it is filed for hearings. I therefore urge that it be substantially amended to be consistent with the ISO/Staff LSE testimony and the policy witness testimony that I understand will be filed.

Although I think the testimony needs alteration, no additional analysis is required, and I think Arlene and Paul have already suggested many of the changes that are necessary. I do not think such revisions should require more than two days of actual work, plus one day for review and discussion. However, I do not think such revisions will in fact be made until we get agreement on the nature of the needed changes. So I think we should meet as soon as possible to try to resolve these issues.

REGARDING THE FEASIBILITY OF STAFF'S ALTERNATIVES

The testimony concludes that all six of Staff's alternatives are feasible, with little or no qualification, and that with the exception of Alts 5 and 6 they have no significant impacts that go to the issue of feasibility. Yet the same testimony paints a picture that is not nearly so certain.

Alternatives 1 and 2 would be built adjacent to an elevated freeway, practically directly next to it. The proximity of the view would be dramatic. Night lighting would be dramatic. I frankly cannot imagine that we would have ever dismissed such an impact as less than significant had the project originally been proposed there. For this reason I believe our assessment is inconsistent with prior analyses in Sutter and Pittsburg, In Sutter our original testimony would have indicated that Sutter's impact was significant from a KOP off Hiway 99 several miles away. In Delta our analysis indicated that Delta was a significant impact at a greater distance from a smaller, surface level road in an area that had very low scenic quality. Although Staff backed off its significance finding from the Hiway 99 KOP in Sutter and decided to settle for a mitigation package in Delta, the applicant and others are fully aware that Staff normally employs a low threshold for determining significant visual impact. Yet we say Alts 1 and 2, right beside a freeway, have no impact. At a minimum, we should acknowledge that it may result in a significant visual impact for these alternatives.

Alts 1 and 2 are also on prime ag land, and in fact would apparently use more of it than does the project. Significantly, they would require local land use

entitlements that we do not know if an applicant would get. This qualifies feasibility.

Even more important, Alts 1 and 2 are not feasible—by the terms of our own testimony—absent the prior licensing and construction of the Los Esteros substation. Our testimony states that this isn't a "fatal flaw" because we have no reason to believe that such will not ultimately occur. Perhaps so, but we should definitely qualify the feasibility of this alternative by stating that its feasibility is entirely contingent on such additional infrastructure.

Additionally, we should at least note the possibility that Alt 1 is less than ¼ mile away from land planned for residential, commercial, and residential use, creating issues of compatibility with an adjacent power plant use. It would displace agricultural worker housing and be located near a residential trailer park, which raises the important potential for environmental justice issues, as migrant workers and trailer park residents are often poor, minorities, or both. All of this should be acknowledged in our testimony as facts that are relevant to both the potential significance of impacts and to site feasibility.

Like Alt 1, Alt 2 would be near a trailer park and additionally near the community of Alviso. This raises issues of environmental justice, and we should acknowledge that this may qualify feasibility.

Moreover, nothing better legitimizes an environmental justice argument than suggesting that a project be moved from an area that is predominantly middle-class/high tech to a community that is poor and inhabited by minorities. The discussion of this in the testimony suggests that this may not be a problem because of the countywide or citywide demographic numbers, but EJ issues are never this simple. Trailer parks and ag housing are red flags for potential EJ issues.

From our own testimony, I find it doubtful that sites 1 and 2 are either feasible or "environmentally preferable."

Alts 3 and 4 may have their feasibility qualified by the 40 foot height limit, as discussed further below. If the City is at all uncertain about granting a variance or going along with our recommending variance conditions as the "in lieu" agency, a LORS override might be necessary in order to site the facility. This significant feasibility question mark is overlooked by our analysis.

In addition, Alt 4 has several residences nearby that will be directly confronted with the view of a new power plant. Even allowing that the visual resources in this area may be less than those on Blanchard Road, are we being consistent to say that this is clearly not a significant visual impact when it is (for MEC) a significant impact for Blanchard Road residents?

The testimony states that Alternatives 5 and 6 may have biological habitat impacts that are not only significant, but potentially unmitigable. This heavily qualifies the feasibility of such sites, and suggests that the sites are not an "environmentally preferable" alternative.

Finally, no matter how much we tout the alternatives, they are at best birds in the bush rather than birds in the hand. If they are feasible—and that is at best uncertain—they are years away from being at the licensing decision stage. Thus they cannot satisfy the project objective of getting new generation on line for reliability and economic purposes in the near term. Both the Legislature and the ISO have greatly elevated this project objective in its comparative importance. This importance, including an analysis of the reliability benefits, is in the ISO/Staff LSE testimony. The alternatives testimony tries to quibble with that testimony and undercut it. I believe that it is essential that the alternatives be consistent with the LSE testimony and with the policy testimony that will summarize the staff's overall position.

My specific recommendations for changes for the first 30 pages are attached. The changes regarding the remainder of the document are largely, if not specifically, related in the above discussion.

pp. 1-2: I agree with Arlene that these should be deleted. They are editorial in nature and request the Commission to override after stating specific circumstances in which override would be inconsistent with CEQA. Let the analysis begin on p. 10, with the introduction.

p. 11 (footnote): If the definition of "feasible" is to be provided, set it forth fully from Section 15364.

p. 12: I agree with Arlene that what the testimony calls "site specific project objectives" are in fact screening criteria, and should be identified as such. Calling them project objectives is confusing, and flatters the alternatives in that it suggests that they meet more such objectives than they in fact do. It's almost like saying "meeting air quality requirements" is a project objective, then crediting the alternative with meeting an additional project objective.

p. 22: I think the project objective is "Being on line by the summer of 2002 or as soon thereafter as possible". The testimony tries to deprive the project of even this benefit, noting that the 2002 date may not be met. This is a very miserly treatment of the objective, which in reality is to provide reliability and cost benefits as soon as possible.

Please delete the line beginning with "However." Replace it with the following:

"Moreover, any alternative would likely require at least two additional years for license preparation and the licensing process that would follow."

p. 23: Avoid the overuse of evaluative descriptors. Replace "are substantially better than MEC" with "are greater, averaging" . "Replace "are somewhat worse" with "less".

p. 25: Same comment as p. 12.

p. 26: The testimony describes the alternative as avoiding "the proposed project's potential significant impact on discharge water quality." Yet according to the chart on p. 7; this impact is less than significant. If p. 7 is correct, this paragraph should be deleted.

p. 27: The first full paragraph is assessing the feasibility of Alts 3 and 4. It states that there is a 40 foot height limitation, and that the City of Fremont has indicated that it is not inclined to approve a height variance necessary for the feasibility of the alternative. The testimony dismisses this problem by stating: "However, such a variance is not prohibited, so the need does not constitute a fatal flaw for either site"

I do not feel that it makes sense to be so dismissive of a local land use standard. If the City believes there is nonconformity and refuses to issue a variance, I think it could be a significant issue regarding feasibility. The world is not divided into "feasible" and "fatal flaw", as the testimony suggests. I think the line in question should be replaced with a fairer appraisal:

"Nonconformity with the height standard may be a problem for the feasibility of the alternative sites, particularly given Fremont's indication that such a variance is difficult to obtain. This could mean that the project could not be built absent specific "override" findings by the Commission regarding the local ordinance, and makes the feasibility of the sites uncertain."

The next sentence, under general plan and zoning consistency, needs to delete Alts 3 and 4 from its conclusion regarding consistency.

p. 29: The first full paragraph indicates that Staff thinks there may be a significant impact to air quality/public health that Alts 5 and 6 alleviate. In fact, Staff has long since concluded that there is no significant impact in either area. The paragraph should be omitted.

Likewise, two paragraphs further below, under "Biological Resources", the text states that MEC may have significant indirect and cumulative impacts—this is clearly inconsistent with conclusions of that testimony, and inconsistent with the p. 7 summary table. The paragraph should be deleted.

Likewise, the final paragraph on the page suggests credits for Alts 1 and 2 because they do not "cause the indirect impact" of Nox deposition; again, this suggests the existence of a significant impact, when the bio testimony states that the impact is less than significant after mitigation.

p. 30: The second para. indicates that the plant could use an existing 115 kv line or be underground (for 2.5 miles) Is the current line adequate for this level of generation. Would there be new towers, or perhaps a new line? I definitely doubt that anyone is going to underground 2.5 miles of transmission line in a non-urban area, given the costs involved.

More important, at the bottom of the page, the Conclusion continues to insinuate a significant bio impact that the alternatives avoid, and state that therefore the alternatives 1-4 are preferable to MEC. This is unwarranted given that the impacts to bio are mitigated to a level of less than significant, and Linda told me that the biologists are more than pleased with the habitat mitigation.

p. 31: This mischaracterization of the biological impact continues on the next page, citing 'significant and possibly unmitigable' biological impacts that result from MEC. As a result MEC is termed "approximately equal" to Alts 5 and 6, despite the fact that the testimony says Alts 5 and 6 have significant, potentially unmitigable biological impacts. This comparison is clearly incorrect.

Memo from
CEC Counsel
with
suggestions to
change
alternative
testimony to
support CEC
override

From: Arlene Ichien
To: "prichins@jps.net".GWIA.GWIADom; "rrcratliff@aol....
Date: 10/9/00 8:39AM
Subject: Re: Suggestions on the alternatives analysis

Good morning, reviewers,

I am still working on getting through the latest draft and am disappointed in the amount of rewriting that I think needs to be done if staff is to have a cogent case and recommend approval based on overriding considerations. If staff is not going to recommend approval, then the inconsistencies and convolutions are less important. In the meantime, I think Paul's suggestion is an excellent one and such a table should replace text that attempts to convey the same information. His relatively straightforward suggestion, nevertheless, requires substantial effort, given how difficult it has been to get changes made to date. The alternatives analysis needs substantial rewriting and word-smithing that I have no confidence can be done today in time for publication tomorrow. The way it currently reads, the staff/policy witness has a large burden to overcome in making a case that the alternative sites are "infeasible." Based on the current text, the overwhelming evidence is that they are not; they are feasible because there is no import attached to the on-line objective and, instead, much of the current text seems to downplay that objective and the system benefits of Metcalf. Staff is building a strong case for finding the alternative sites feasible and, thereby, precluding a finding of overriding benefits that outweigh the visual and agricultural impacts. Land use incompatibility is not, in itself, an environmental impact, that is, a change to the physical environment. But even if it is a question of LORS compliance rather than significant environmental effects, feasibility of alternative sites remains a key issue for the findings regarding public convenience and necessity under section 25525. Right now, the staff's case, based on the current alternatives analysis, is that an override under CEQA and section 1755 of our regulations and under section 25525 are an incredible stretch. Dick and I think you, Bob T., should seriously consider postponing the publication of the alternatives section. The new alternative to alt 1 and 2 could be a reason in itself to do so. I also think the LSE group needs to read the draft before it goes out.

--Ariene

>>> Paul Richins <prichins@jps.net> 10/08/00 06:57PM >>>
Hello Team,

Attached are some of my comments over the first 25 pages.

Food for thought, I would suggest that much of the narrative in this long analysis may be reduced to a simple table or fact sheet of the pros and cons for the project and the 6 alternate sites. A one-page fact sheet on each alt and the project could replace pages of narrative or could be in addition to the existing text. Dick R. and I did this in the Sutter Alternatives and I think it was useful to the Committee.

The major headings for each one page fact sheet or summary sheet might be:

1. Key elements of the site
2. Advantages
3. Disadvantages
4. Fatal Flaws/potential impacts
5. Other pertinent info.

Paul—

From: Arlene Ichien
To: Ratliff, Dick; Richins, Paul; Therkelsen, Bob; ...
Date: 9/30/00 7:46PM
Subject: Alternatives Testimony

Attached are explanatory notes regarding edits I made to a hard copy of Gary's testimony. (Thank you, Gary, for the copies you gave me.) I'm giving the original copy of my hand-written edits to Gary and a copy to Paul for anyone to review. I'm out of the office until Wednesday.

COMMENTS ON DRAFT ALTERNATIVES TESTIMONY
Arlene L. Ichien – September 30, 2000

Following are explanatory notes to the edits I made on the hard copy. I tried to comment here on a page-by-page basis, but, lacking time, summarize the main points after page 15.

p. 1

Delete the conclusions and recommendations sections and begin with the introduction on p. 9. Otherwise, the testimony comes across as advocating the alternative sites over the proposed site based on the author's conclusion that they are "environmentally preferable." This, in turn, suggests that the main objective of the testimony is to identify the environmentally superior site or sites. Instead, the testimony should focus on comparing the environmental impacts, or lack of impacts, of each alternative site with those of the project and avoid stating a preference. Even if one or more of the alternative sites avoids a potentially significant impact of the project, it doesn't mean the commission must reject the project or make overriding findings to approve it. The commission may find that the project's impacts are sufficiently mitigated and approve it on that basis. For that reason, the "recommendation" (which, as stated, is actually an incorrect legal conclusion) should be deleted.

Move figures 1 and 2 and tables 1 and 2 to appropriate places in the text. Figures 1, for example, could go after p. 14, Figure 2 after p. 15, and Table 2 after p. 63.

p.5

Land use, proposed site, insert "10 acres" before "prime farmland" as an informative detail. Delete "significant impact due to land use incompatibility (visual)".

did not delete

p. 6

Alt 5 and 6, public health, delete "potential could be less than for proposed site". If the proposed site has no significant impacts, then it's unnecessary (if not misleading) to say the potential (for insignificant health impacts?) could be less.

Alts 3, 5, and 6, traffic and transportation, change "no impacts requiring mitigation" to "no significant impacts expected". This avoids a conclusion that should be supported by a more detailed, project-specific analysis than what is done in an alternatives analysis.

p. 9

Introduction. Consistent with what should be the focus of the testimony, modify the first paragraph to state, "The assessment also compares the impacts of the various alternatives with the impacts of the proposed project, but in less detail than the analysis of the project."

Purpose and Approach. Delete in entirety. The first paragraph is repetitive of the introduction. The legal citations are unnecessary, as is the section on legal guidance for alternatives analysis. The latter belongs in a legal brief.

p. 11

Potential Significant Environmental Impacts of the Proposed Project. Begin the paragraph with, "The project would cause potentially significant impacts in the areas of land use and visual resources."

Land Use. Change the first sentence to read, " The proposed project would convert 10 acres of prime agricultural land to an industrial use and would not be compatible with [number] nearby residences because of its significant visual impact." Be factual. This applies to the testimony in general.

p. 14

Staff's Alternative Site Identification Process. Change to "Staff's Screening Criteria." Change "one or more" to "one or both". There are two significant effects, visual and loss of prime ag land. Insert a new criterion 2: "feasibly accomplish most of the basic project objectives" and make minor corrections and edits as indicated on the page. Combine the criteria on pages 14 and 15 and refer to them all as screening criteria. The reader doesn't lose anything, other than an unnecessary paragraph on page 15.

p. 15

Delete the main heading, "Selection of Alternatives ..." and the screening criteria. Combine them with the criteria on page 14 as described above.

Alt-1 and Alt-2. See corrections in first paragraph. Delete the last two sentences regarding "no fatal flaw" (referring to impacts discussed in the EIR of the not-yet-built substation) and "potential feasible alternative sites for the Metcalf project." Here is a good place to comment upon where the PG&E application is in the PUC's process, the status of the EIR, and the remaining events in the PUC's schedule. that would be informative to include here.

The analysis is very thorough, sufficiently (impressively) detailed, and reasonably well organized. In places, however, it is overly repetitive and unnecessarily convoluted. For example, it isn't necessary to have both a summary and a conclusion after each technical-area analysis. I find no substantial difference between the two sections. Therefore, I strongly recommend leaving only a summary at the end of each technical analysis as I have indicated on a hard copy. I also strongly recommend deleting repetitive verbiage and summarizing the sites' impacts collectively to the extent possible. My edits are for that purpose and to make the document more readable.

I found the organization/discussion of project objectives, screening criteria, and criteria for more detailed analysis to be convoluted and repetitive in part. I left the three main objectives as basic project objectives on page 11. Having land of adequate size and being near key infrastructure are screening criteria, not basic project objectives. Therefore, these criteria on page 11 should be deleted and discussed as I have indicated on subsequent pages as screening criteria.

References to water impacts as significant and insignificant are inconsistent. Because staff has concluded the increase in salinity in the wastewater discharge is insignificant, I made edits accordingly as I found statements indicating otherwise.

As a general matter, I deleted "staff" in reference to alternative sites 1—6. The text reads better if the sites are referred to simply as Alt-1, Alt-2, Alt-3, etc. It's already clear that these are the sites resulting from staff's screening analysis. Also, deleting "staff" eliminates any suggestion that staff is pushing for one or more of these sites over Metcalf. Staff, in fact, may be, but the testimony should be a comparison of factual differences among the sites. For similar reasons, I deleted statements that a site is "environmentally preferable" to the Metcalf site. Moreover, such statements appear in individual technical areas where it is misleading to conclude that one or more sites are "environmentally preferable" based on analyzing one technical area.

Table 2 provides a good summary of the impacts and a comparison of the proposed site with each alternative site 1 through 6. I recommend inserting it in the text at page 61, after the analysis of waste management and with one introductory sentence that reads, "Alternatives Table 1 [2?] compares the expected environmental impacts of the proposed project with those of the six alternative sites. The remaining text comparing the sites is repetitive of the prior comparative analysis and is better left to the table at this point. Therefore, I strongly recommend deleting the three pages or so of summarizing text and going straight to the no project alternative.

p. 66

No-Project Alternative. Delete opening statements about the law and begin with, "Pursuant to the CEQA Guidelines, this analysis discusses the no-project alternative based on the existing conditions ... as well as what would be reasonably expected to occur" Then, after the paragraph on existing conditions, insert a section under a new sub-heading, "Conditions Reasonably Expected to Occur."

Summarizing the significant impacts of the project are not necessary here, as well as the project's significant impacts that would be avoided. It is unnecessary repetition. The analysis should continue, instead, with the environmental consequences of the no project alternative—the direct and indirect impacts.

p. 67

Given the existing conditions (including the extreme congestion on 101) and staff's analysis in visual, I find it unpersuasive that development of the area is not expected by staff to lead to significant visual and traffic impacts.

My edits on subsequent pages pare down wording, delete comments on the ISO's letter that go beyond the expertise of the staff here (p. 69), and delete a questionable statement about air quality impacts from peakers not likely to be significant (even though the impacts would likely occur in the summer during peak ozone episodes).

pp. 71—73

After reading the non-environmental discussion on these pages after going through the lengthy environmental analysis of alternative sites, I firmly believe this summary is best left to the LSE section by Al, Charlie, and Peter. The alternatives testimony should focus, as CEQA intended, on a comparative analysis of environmental impacts. Having said that, I think the summary tables comparing system effects of the alternative sites with Metcalf are appropriate where inserted on pages 23 and 24 of the Sept. 30 draft. They are relevant to a discussion of one of the project objectives—providing grid reliability benefits. The restatement at the end, however, is unnecessarily repetitive of both the LSE testimony and the earlier summary tables. Therefore, I strongly recommend deleting the non-environmental effects section on pages 71–73, except for the section on “rapidity of implementation.” That section seems relevant to the first project objective.

From: Gary Walker
To: Therkelsen, Bob
Date: 9/25/00 11:45AM
Subject: Re: Alternatives

Bob - Thank you for your comments. I plan to incorporate your suggested wording into my revised draft. However, I think that it is essential to tell the decisionmakers more about the environmental characteristics of the alternatives than just the potential significant impacts of the proposed project that the alternatives may avoid or substantially lessen. I addressed the topic of environmental preferability because it is crucial for the decisionmakers to also know whether the alternatives would cause any significant environmental impacts that the proposed project would not cause. The environmental preferability discussion addresses this broader issue of a summary environmental comparison, considering both the significant environmental advantages and any disadvantages of the alternatives compared to the proposed project. Perhaps it needs to contain more explanation and details.

In regard to the technical updates, visual resources and land use will also be updated to reflect the changes in those sections regarding the proposed project. Although the primary conclusion in both of those areas (that the proposed project would cause significant unmitigable impacts) remains the same, several of the specific impacts found in the PSA to be significant are now not considered to be significant.

In regard to the local system effects, I have begun to incorporate that information into the "no project" alternative discussion, which I hope to provide to you by c.o.b. However, I need some clarification from Al McCuen. I also plan to discuss local system effects in regard to the alternative sites.

>>> Bob Therkelsen 09/25/00 08:28AM >>>

Gary - I looked at the latest draft of the alternatives section this weekend.

I felt the organization was improved. I am concerned about the conclusion section at the beginning. I felt it should be more specific on what we concluded. I also do not feel it (or other portions of the text) should use the words "environmentally preferable". That term is not included in CEQA and can easily give an incorrect impression to the reader. (I don't recall that we have used it in the past nor have I seen it in other EIRs.) Attached is a suggested rewrite of the opening conclusion section that I think is more precise.

The summary on page 59 should be parallel to the conclusion section if it is rewritten.

As you noted on the draft, many of the technical areas have not been updated. I assume this will primarily impact flooding at the proposed project site, biology, and water.

I did not see any discussion on the relative transmission or system benefits of the alternatives compared with the proposed project. Is that going to be included?

Oh, footnote 3 is missing and there are some typos on page 65.

-bt

CC: Edwards, Dale, Ichien, Arlene, Ratliff, Dick, R...

GDW 10-1-00

X

The staff's alternatives analysis considered 17 sites to determine if there were any alternatives that could feasibly attain most of the project's objectives and avoid or substantially less significant adverse impacts of the proposed project. The applicant's primary objectives for the project, in addition to selling electricity into California's electricity market, are to provide electric system reliability and transmission congestion benefits within the San Francisco Bay Area and be on-line by the summer of 2002. The two significant adverse impacts identified by the Commission staff in its analysis of the proposed project relate to visual resources and compliance with land use requirements. While projects at none of the alternative sites will be able to be on-line by the summer of 2002¹ (assuming one year for permitting and two years for construction) four of the alternative sites (Alt-1, Alt-2, Alt-3, and Alt-4) achieve the remaining objectives to ~~the same or a~~ ^{greater} ~~less~~ ^{than} degree as the proposed project and avoid potential significant visual and land use impacts. Projects located at all of these sites have the potential for noise impacts but these could be ~~engineered~~ ^{mitigated} to levels of insignificance.

Why single out noise? delete?

Gary's 10/1/00
comments on
Paul/Bob T.'s
9/24/00 Ft

¹ It is also unlikely that the proposed project will be able to begin operation in the summer of 2002 due to changes made in the project description by the applicant during the permitting process. The proposed project, however, could become operational approximately 12 to 18 months prior to any of the alternatives.

Gary Walker
memo to Paul
Richins telling
him executive
summary did
not reflect the
alternative
analysis
testimony

From: Gary Walker
To: Richins, Paul
Date: 10/13/00 9:58AM
Subject: Re: Response to your comments re: Executive Summary of Metcalf

Paul:

I made you aware of almost all of the points in my previous e-mail during our extensive discussions of the alternatives analysis. Your failure to reflect those points in the executive summary was not due to a lack of information.

>>> Paul Richins 10/13/00 06:55AM >>>

Gary,

The Executive Summary was a group effort between Bob T, Arlene, Dick R., Kerry, and myself. I know we were all very busy but it is unfortunate that you did not take the time to provide comment on the section before it was released as the entire team was provided a copy for review several weeks ago. Eric, Al, Charley, Peter Mackin, Linda S, Lorraine, and Magdy provided feedback that was incorporated.

Paul---

>>> Gary Walker 10/12/00 03:16PM >>>

Bob and Paul:

I just read the executive summary of the published Metcalf FSA. I was not in the review loop for that section, but I expected that it would accurately reflect the alternatives analysis and other sections. However, there are many inconsistencies between the executive summary and other sections due to inaccuracies and exaggeration in the executive summary.

In regard to alternatives, the executive summary (p.7) states that a plant at an alternative site "would not begin producing electricity for the grid until 2005, at the earliest." I calculated the earliest potential on-line date for a plant at an alternative site, based on the expected AFC decision date (March 2001, according to Roger), the range of the construction period for MEC (18-22 months, according to the Executive Summary), and the additional time required for preparation and processing of an AFC on a plant at an alternative site (18-30 months, according to Bob T.). These assumptions result in a range of on-line dates from March 2004 to June 2005. The earliest possible on-line date would thus have the project on line for the summer peak of 2004, a year earlier than the Executive Summary indicates.

The Executive Summary (p.7) states that a project at "any one of these sites would not be in conformance with all local land use requirements. This is not true for sites Alt-5 and Alt-6.

The Executive Summary (p.7) states that a project at any of the alternative sites "may have issues regarding environmental justice and visual impacts" (emphasis added). The alternatives analysis discusses environmental justice in regard to the alternative sites, but it does not state that they "may have issues." The potential for EJ issues is based on the potential for significant impacts, and staff's analysis states that no significant impacts are expected at alternative sites Alt-3, Alt-4, Alt-5 and Alt-6. Jim Adams, who wrote staff's EJ discussion, told me that to say that the use of an alternative site "may have issues regarding environmental justice" is a stretch. Raising the possibility of EJ issues for sites Alt-5 or Alt-6 is ludicrous based on the sparse population and its predominantly non-minority composition. Regarding visual impacts, the staff's analysis states that a plant at Alt-1 or Alt-2 would contribute with the Los Esteros Substation to a significant cumulative impact, but staff does not expect significant cumulative impacts at any of the other four sites and does not expect significant project-specific impacts at any of the sites, as the analysis states. Even a suggestion that visual impacts at Alt-5 or Alt-6 could somehow be significant is not credible, given its greatly degraded visual quality.

The Executive Summary (p.7) states that "the use of an alternative site "may appear to lessen or avoid the impacts of the project. This is a gross mischaracterization of the analysis. The alternatives section states that staff **expects** that use of an alternative site **would avoid** (not "may appear to lessen") the significant impacts of the project. Paul suggested the "may appear to lessen" wording for the alternatives section and I explained why it was not accurate, and it was not used in the alternative section. Its appearance in the Executive Summary is therefore not appropriate.

The Executive Summary also includes several important misleading statements, omissions, and inaccuracies. outside the topic of alternatives. The introductory paragraph of the conclusions (p.4) states that staff has proposed conditions to ensure that potential impacts are mitigated "to the greatest extent feasible," but does not clarify that significant unmitigated land use and visual impacts remain.

The overview discussion of potential environmental impacts (p.5) states that "staff's analysis indicates that the project's environmental impacts are **"fully** mitigated to levels of less than significant in all areas except for visual resources and land use" (emphasis added). I previously explained to Paul that adding "fully" is misleading and unnecessary. It can be construed to mean that the project with mitigation would have **no adverse impact**, rather than **no significant adverse impact**, in those subject areas.

The subsequent discussion of potential project impacts (p.6) only indirectly indicates in the introduction that the land use and visual impacts are **significant** impacts, the crucial criterion of CEQA; the word "significant" is not used in the heading or in the description of the specific impacts. The description of visual resources impacts also neglects to state that the direct impacts on the views from the Blanchard Road area would be impacts on residences.

The discussion of conformance with LORS (p.7) states in regard to land use that the project would be consistent with 23 applicable LORS and "would be inconsistent with three development guidelines." However, the land use analysis assesses the project as inconsistent with two guidelines and a standard.

The executive summary's conformance with LORS discussion in regard to visual resources is curiously less specific than in regard to land use. It discusses the project's inconsistency with "a number" of visual LORS rather than specifying the number: **sixteen**. The discussion is also inaccurate in stating that the project "has the potential" to conflict with these policies and guidelines. For most of the 16 inconsistencies, the visual resources analysis states that the project **would** cause the inconsistency or is inconsistent.

The recommendation (p.8) lists "dedication in perpetuity of 130 acres of habitat for the endangered bay checkerspot butterfly" as a benefit of the project. However, this is a mitigation for project impacts. Although it may have a net benefit, it is misleading to imply that it is a project enhancement rather than a mitigation measure.

The alternatives section of the FSA was substantially modified in response to multiple rounds of numerous comments by several reviewers, partly to ensure that it did not exaggerate the advantages and feasibility of the alternative sites. It does not appear that the Executive Summary was subjected to similar careful scrutiny in regard to the advantages of the proposed project. All of the inaccuracies, omissions, and exaggerations cited inflate the benefits of the proposed project in comparison to alternative sites. I am concerned that the Executive Summary therefore appears to lack objectivity and credibility. This can lead to immediate perception problems as well as to difficult questions regarding inconsistencies with technical analyses during the hearings. Staff was instructed to be objective and factual in its analysis. The policy recommendation in the Executive Summary should rely on those facts. The recommendation to approve the project is not well served if it does not. I therefore recommend that at least the most egregious of the inaccuracies and exaggerations be corrected immediately in an errata.

Gary

CC: Edwards, Dale, Haussler, Bob, Ichien, Arlene, J...

Memo from
Gary Walker to
project manager
Paul Richins
with concerns
about executive
summary in the
areas of
transmission
system effects
and land use

Sent: Wednesday, September 27, 2000 7:33 PM
To: Paul Richins
Cc: PMackin@caiso.com; Arlene Ichien; Al McCuen; Bob Haussler; Bob
Therkelsen; Charles Vartanian; Dale Edwards; Eric Knight; Kerry Willis;
Laiping Ng
Subject: Re: Metcalf Team Meeting--FSA Recommendation

Paul:

As we briefly discussed earlier today, I have several corrections for your draft Executive Summary. My first set of comments addresses the section of the summary regarding consumer benefits and local electric transmission system effects. I have learned several relevant things from staff who prepared the local system effects testimony. The Executive Summary cites the September 1, 2000 letter to the Energy Commission from Terry Winter of the ISO. The summary paraphrases the letter as stating that "new generation at Metcalf will be a permanent means to defer these extreme measures," [emphasis added] after citing the letter's statement that the ISO could be forced to implement rolling blackouts. However, the "extreme measures" referred to are other actions that the ISO would take to prevent rolling blackouts, such as providing financial incentives for installing temporary generation in key locations in deficient areas. In discussions regarding local system effects and alternatives, I learned from Peter Mackin that the ISO has already issued an RFP for temporary generation, and Calpine revealed yesterday that they plan to apply to the Energy Commission for six such facilities typically of over 90 MW each, four of which would provide power that would benefit the South Bay area. Calpine plans to apply for certification of these generators under the emergency four-month siting process authorized by AB 970, and to have the generators on line by summer peak 2001, long before MEC would be on line. Therefore, MEC would not avoid the example of "extreme measures" cited in the ISO letter. Furthermore, the local system benefits of MEC must be calculated considering the local system effects that the temporary generation would have. Clearly, that generation would provide some of the benefits to the local electrical system that MEC would provide. In addition, the local system effects of the capital facilities that MEC may defer, cited in the summary, must be considered. (It is the net benefit of MEC that is legitimate to consider as a factor in evaluating the application, not the gross benefit.) In response to my inquiry, Charlie Vartanian has described those effects in regard to the system characteristics that MEC would affect (I am forwarding my inquiry and his response). The effects of the projects would be to eliminate projected overloads and to enable higher amounts of power from the 500kV system coming from outside the Greater Bay Area to penetrate the Metcalf 230 kV system and beyond, benefits that MEC is cited as providing. Also, Peter Mackin said that the transmission facilities that staff's local system effects testimony identify as potential deferrals do not require any new right-of-way, contrary to the ISO letter's statement that such new right-of-way may be required, which is cited in the executive summary. Peter, who drafted the ISO letter, also said that he now does not expect blackouts to occur, even without MEC. Therefore, emphasizing potential blackouts in the executive summary may not be appropriate. Considering all of these points, the statement in the executive summary that "Energy Commission staff agrees with the points made by Mr. Winter" does not apply to all of the points cited in the summary, and should be revised. You asked me whether the ISO had provided a later letter revising its position to account for these points. I told you that I was unaware of any such subsequent letter or any intention to provide it. However, it is crucial that this additional information be placed in the case record in some form to provide the decision-makers with an accurate, more complete understanding of the project and its effects.

Regarding land use, I understand from discussions with Eric Knight that you already intend to revise the summary table regarding environmental impacts and LORS conformance to show significant land use impacts. However, the discussion in the executive summary regarding alternatives also needs to be

revised because it now states in regard to alternative sites 1 and 2 that "land use is a LORS conformance not an environmental impact." As Eric has explained, it is both.

Gary

>>> Paul Richins 09/27/00 10:52AM >>>
Hello Team,

Please attend the team meeting with Bob T scheduled for tomorrow. We will be including an over-all recommendation on the Metcalf Energy Center in the FSA. This meeting is your opportunity to provide input to Bob T to assist in making that decision. The meeting is for one hour only so please keep your comments brief.

FYI, attached is the draft of the Executive Summary that summarizes the project's potential impacts, LORS nonconformance and benefits.

Date: 9/28/00
Time: 3:00 to 4:00 p.m.
Place: Room 2A

The various consultants on the project are not required to attend. Pass your thoughts on to your CEC counterpart and he/she will represent you in the meeting.

Paul---

GW 10-12-00

EXECUTIVE SUMMARY

This report contains the Energy Commission staff's independent analysis and recommendation on the Metcalf Energy Center (MEC). **This is not the decision document for these proceedings nor does it contain findings of the Energy Commission related to environmental impacts or the project's compliance with local/state/federal legal requirements.** The final decision including findings, will be made by the Commissioners of the California Energy Commission after completion of evidentiary hearings. During these hearings the Commissioners will consider the recommendations of all interested parties, including those of the Energy Commission staff in this document; the applicant; intervenors; concerned citizens; City of San Jose; and other local, state, and federal agencies, before making a final decision on Calpine/Betchel's application to construct and operate the nominal 600-megawatt, natural gas-fired Metcalf Energy Center.

It is the responsibility of the Energy Commission staff to complete an independent assessment of the project's potential effects on the environment, the public's health and safety, and whether the project conforms with all applicable laws, ordinances, regulations and standards (LORS). The staff also recommends measures to mitigate potential significant adverse environmental effects and conditions for construction, operation and eventual closure of the project, if approved by the Energy Commission. The analyses contained in this document were prepared in accordance with Public Resources Code Sections 25500 et seq.; the California Code of Regulations, Title 20, Sections 12001 et seq.; and the California Environmental Quality Act (Pub. Resources Code §§ 21000 et seq.) and its guidelines (Cal. Code Regs., tit. 14 §§ 15000 et seq.).

The Metcalf Energy Center and related facilities such as the electric transmission lines, natural gas line, water supply lines and wastewater lines are under the Energy Commission's jurisdiction (Pub. Resources Code § 25519(c)) under the California Environmental Quality Act (Pub. Resources Code §§ 21000 et seq.), and its process environmental impact report (C

Gary's 10-12-00

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FSA

PROJECT LOCATION AND I

On April 30, 1999, the Calpine Application for Certification (AFC) for the Metcalf Energy Center (MEC), a nominal 600-megawatt electric generation facility. On August 11, 1999, the Commission accepted the AFC as complete. On February 15, 2000, Calpine/Bechtel filed supplemental information in response to input from the public and the City of San Jose. Additional information was provided in response to information requests through September 2000.

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EXECUTIVE SUMMARY

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It is the responsibility of the Energy Commission staff to complete an independent assessment of the project's potential effects on the environment, the public's health and safety, and whether the project conforms with all applicable laws, ordinances, regulations and standards (LORS). The staff also recommends measures to mitigate potential significant adverse environmental effects and conditions for construction, operation and eventual closure of the project, if approved by the Energy Commission. The analyses contained in this document were prepared in accordance with Public Resources Code Sections 25500 et seq.; the California Code of Regulations, Title 20, Sections 12001 et seq.; and the California Environmental Quality Act (Pub. Resources Code §§ 21000 et seq.) and its guidelines (Cal. Code Regs., tit. 14 §§ 15000 et seq.).

The Metcalf Energy Center and related facilities such as the electric transmission lines, natural gas line, water supply lines and wastewater lines are under the Energy Commission's jurisdiction (Pub. Resources Code § 25500). When issuing a license, the Energy Commission acts as lead state agency (Pub. Resource Code § 25519(c)) under the California Environmental Quality Act (Pub. Resource Code §§ 21000 et seq.), and its process is functionally equivalent to the preparation of an environmental impact report (Cal. Code Regs., tit. 14 § 15251(k)).

PROJECT LOCATION AND DESCRIPTION

On April 30, 1999, the Calpine Corporation and Bechtel Enterprises, Inc. filed an Application for Certification (AFC) seeking approval from the California Energy Commission (Energy Commission) to construct and operate the Metcalf Energy Center (MEC), a nominal 600-megawatt (MW), natural gas-fired, combined cycle electric generation facility. On June 23, 1999, the California Energy Commission accepted the AFC as complete. On October 1, October 15, 1999, and February 15, 2000, Calpine/Bechtel filed supplements A, B and C amending its original proposal in response to input from the public and the City of San Jose. Additional information was provided in response to information requests through September 2000.

The proposed site is located partially in the City of San Jose and partially in the County of Santa Clara near Highway 101 in the south part of San Jose (see **PROJECT DESCRIPTION Figure 1**). The site lies at the southern base of Tulare Hill in northern Coyote Valley to the west of Monterey Highway and south of the Metcalf Road intersection. The 20-acre site is currently zoned for agricultural uses by both the city and county.

Calpine/Bechtel's proposed power plant design consists of two 285-MW combustion turbine generators (CTG), each equipped with steam injection power augmentation capabilities; two heat recovery steam generators (HRSG) with duct burners; a single 235 MW condensing steam turbine generator; a mechanical draft (wet/dry) plume-abated cooling tower; and a 230-kilovolt (kV) switching station. The combustion turbine trains will include 145-foot exhaust stacks at the southern end of the site and step-up transformers, HRSG units, steam turbine generator units and their transformers, and water treatment and cooling towers.

Nitrogen oxide (NO_x) emissions from the combustion process will be controlled to no more than 2.5 parts-per-million by volume dry (ppmvd) corrected to 15 percent oxygen by utilizing dry low NO_x combustion technology in the CTGs and a selective catalytic reduction (SCR) system for the HRSGs. The SCR system will use aqueous ammonia for the reduction process.

Additional facilities proposed as part of this project include an administration building with control room, storage tanks, parking area, water treatment building, a switchgear building and a warehouse/maintenance shop. Calpine/Bechtel may also install a temporary rail spur from the adjacent Union Pacific Railroad to accommodate delivery of heavy equipment during construction.

The proposed power plant is adjacent to existing PG&E transmission lines that are connected to the Metcalf Substation. Electricity generated by MEC will be delivered to the transmission grid via a new 230-kV transmission line approximately 240 feet in length. The overhead transmission line will connect into PG&E's existing 230-kV Metcalf-Monte Vista No. 4 line which runs east-west along the northern edge of the project boundary.

Calpine/Bechtel proposes to use approximately 2.9 to 5.8 million gallons a day of recycled water for cooling purposes from the San Jose/Santa Clara Water Pollution Control Plant as part of the South Bay Water Recycling Program. This will necessitate the construction of a new 10.2-mile recycled water supply line (the "SBWR Route"). A combined industrial wastewater and sanitary sewer line (less than a mile in length) will be constructed along Fisher Creek to the City's existing sanitary sewer line that runs along Santa Teresa Boulevard. Fresh water will be supplied either by the San Jose Municipal Water System or Great Oaks Water District from wells located in Coyote Valley. The applicant has not selected a water purveyor to date.

During baseload operations, it is expected that the project will use a maximum of 100,522 MMBtus/day of natural gas. The applicant proposes to build a new 16-inch diameter fuel gas pipeline from the MEC to PG&E's existing Line 300, a major

natural gas transmission line along the eastern side of US 101. The proposed gas pipeline is sized to permit operation of the turbines and duct burners at full power.

Calpine/Bechtel estimates the capital costs of the Metcalf Energy Center to be \$300-\$400 million. The applicant expects to employ a peak construction workforce of about 400 over a two-year period and a permanent workforce of 20 for plant operation. Construction payroll is estimated to be about \$40.8 million, while annual operations payroll is expected to be \$1 million.

If approved, construction of the MEC, from site preparation to commercial operation is expected to take approximately 18-22 months.

PUBLIC AND AGENCY COORDINATION

The Metcalf Energy Center is proposed on land currently zoned for agriculture and is designed for campus industrial uses in the City of San Jose's general plan. Consequently, Calpine/Bechtel has applied to the City of San Jose for a change in the general plan and zoning designation. For the City of San Jose to make a determination to change the general plan and zoning, an environmental document is required. The City of San Jose plans to use this document as the environmental document that must be considered in reaching a decision. As such, this analysis has been coordinated with the City of San Jose staff.

Publicly noticed workshops on air quality, water resources, biological resources, project site alternatives, and transmission system engineering were held in San Jose prior to the completion of the Preliminary Staff Assessment (PSA). Several of these workshops were jointly sponsored by the Energy Commission staff and the City of San Jose District 2 Metcalf Energy Center Advisory Committee. After the PSA was issued on May 15, 2000, six days and four evenings of workshops were held to receive comments on that draft document. In total, 20 publicly-noticed workshops and meetings have been held by staff in the San Jose area to understand the issues and concerns of the public and other government agencies. Many helpful comments were received from concerned citizens, the City of San Jose, Santa Clara County, California Native Plant Society, intervenors, and the applicant.

In addition to these workshops, extensive coordination has occurred with the numerous local, state and federal agencies that have an interest in the project. Particularly, Energy Commission staff has worked with the California Independent System Operator (Cal-ISO), Bay Area Air Quality Management District, California Air Resources Board, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, and California Department of Fish to identify and resolve issues of concern.

Written PSA comments received from local, state, and federal agencies and concerned citizens, along with staff's response to each, have been included in this assessment. Written and verbal comments from the applicant and intervenors were carefully considered and incorporated into the analysis where appropriate.

CONCLUSIONS

If the Commission decides to approve the project, staff has proposed 192 conditions of certification to ensure that the facility is constructed and operated in a safe and reliable manner and potential impacts are mitigated to the greatest extent feasible. // Each technical area in the Final Staff Assessment (FSA) includes a discussion of the project and the existing environmental setting; the project's conformance with laws, ordinances, regulations and standards (LORS) and whether the facility can be constructed and operated safely and reliably; project specific and cumulative impacts; the environmental consequences of the project using the proposed mitigation measures; conclusions and recommendations; and any proposed conditions of certification under which the project should be constructed and operated.

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CONSUMER BENEFITS AND LOCAL ELECTRIC TRANSMISSION SYSTEM EFFECTS

The staff of the Energy Commission and the Cal-ISO have completed an analysis of the local electric transmission system effects of the project. This analysis concludes that the project, as proposed, will provide substantial benefits to consumers, industry and the electric transmission system in the greater San Jose area. These benefits include a reduction of 39 megawatts and 81 gigawatt hours of transmission system losses, increased reliability, improved voltage support, and a reduction in the risk of rolling blackouts which the State of California and the greater San Jose area potentially face due to serious electricity shortages. Some of these benefits are listed below. (Refer to the chapter on Local System Effects for a full discussion.)

- The addition of the MEC project significantly reduces system losses that would otherwise result from transporting power in the transmission system. Due to the location of the MEC near the San Jose load center, loss savings of 39 megawatts (MW) and 81 gigawatt hours (GWh) valued between \$23 to \$34 million would be realized. This means that 39 MW and 81 GWh, instead of being dissipated as heat losses in the delivery of power across the transmission lines, are available to consumers with no new transmission lines, no additional consumption of water and fuel, and no additional impacts to water quality, water use, and biological resources. With an electric system that operates more efficiently, system wide costs can be reduced resulting in benefits to businesses and consumers.
- The MEC provides a significant source of real and reactive power to serve loads in the South Bay Area. This will substantially reduce the need for imported power over stressed transmission facilities and reduce the need for additional substation upgrades to prevent voltage collapse and rolling blackouts.
- The MEC provides a substantial increase in the local area's reactive reserve margins resulting in a significant increase in local area reliability and will assist in the maintenance of interconnected system reliability thereby reducing the potential for future voltage collapse or rolling blackouts.
- The MEC may result in deferral or relocation of substantial capital facilities planned or currently located in the South Bay Area and Greater Bay Areas. These capital facilities involve tens of millions of ratepayer dollars. In addition,

the deferral or the elimination of linear facilities can result in deferral or elimination of the environmental impacts associated with tens of miles of such construction.

In a September 1, 2000, letter to the Energy Commission, Terry M. Winter, President and Chief Executive Officer of the California ISO, strongly encouraged the Commission to expedite the review of the Metcalf Energy Center as the "ISO believes that the MEC will provide substantial reliability benefits to the San Jose area sufficient to offset the impacts". Energy Commission staff agrees with the points made by Mr. Winter which are summarized below.

- There is an acute need for new power generation in the San Jose area and throughout California.
- The San Jose area is the most generation deficient in the state.
- The San Jose area is one of the areas most vulnerable to outages and reliability problems in the PG&E service territory.
- With the continued growth in demand, the ISO could be forced to implement rolling blackouts of customers, such as those experienced in the Greater San Francisco Bay Area and San Jose area on June 14, 2000.
- New electric generation at Metcalf will be a permanent means to defer these extreme measures.

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AIR QUALITY

The analysis contained in the Final Determination of Compliance issued by the San Francisco Bay Area Air Quality Management District has been incorporated into the FSA. The San Francisco Bay Area Air Quality Management District believes that the project complies with the appropriate rules and requirements of the District and will not contribute to the degradation of the air quality in the San Francisco Bay Area Air Quality Management District.

Energy Commission staff has identified a number of local air quality issues and potentially significant impacts beyond those addressed by the San Francisco Bay Area Air Quality Management District permit. To mitigate these potential impacts, staff has proposed additional conditions of certification for PM-10 air quality offsets and construction machinery.

OVERVIEW OF POTENTIAL IMPACTS AND LEGAL REQUIREMENTS

It is staff's responsibility to complete an independent assessment of the project's potential effects on the environment and on the public's health and safety, and whether the project conforms to all applicable laws, ordinances, regulations and standards (LORS). The staff also recommends measures to mitigate all identified, potentially significant environmental effects of the project. Staff's analysis indicates that the project's environmental impacts are fully mitigated to levels of less than significant in all areas except for visual resources and land use, and that the project complies with all legal requirements (laws, ordinances, regulations and standards (LORS)) in all technical areas except for land use and visual resources. Below is a

summary of the potential environmental impacts and LORS compliance for each technical area.

Technical Discipline	Environmental Impact	LORS Conformance
Air Quality	fully mitigated	yes
Biological Resources	fully mitigated	yes
Cultural Resources	none	yes
Power Plant Efficiency	none	n/a
Power Plant Reliability	none	n/a
Facility Design	none	yes
Geology	none	yes
Hazardous Materials	fully mitigated	yes
Land Use	yes	no
Noise	fully mitigated	yes
Public Health	fully mitigated	yes
Socioeconomics	none	yes
Traffic and Transportation	fully mitigated	yes
Transmission Line Safety	none	yes
Transmission System Engineering	none	yes
Visual Resources	yes	no
Waste Management	none	yes
Water and Soils	fully mitigated	Yes
Worker Safety	none	Yes

POTENTIAL PROJECT IMPACTS

Energy Commission staff believe that the project's construction and operation impacts can be mitigated to a level less than significant in all areas except for land use and visual resources. (Note: these are not the official findings of the Energy Commission but staff's conclusions on its assessment of the project.) The areas of potential impact are described below.

- Land Use—the project has the potential for a significant and unmitigated adverse impact on agriculture because it would convert about 20 acres of prime farmland to non-agricultural uses.
- Land Use—a project is considered to be compatible with existing and planned land uses if it does not cause significant unmitigated noise, public health and safety, hazardous materials handling, traffic, and visual resource impacts. In this case, the project would be compatible in terms of the above effects except for visual resource impacts.
- Visual Resources—the project has the potential for unmitigable adverse visual impacts in three areas. Staff found that the project would have direct impacts on the views from the Blanchard Road area, degrade the general visual character and quality of the area, and when considered with Cisco Systems planned development, contribute to a cumulative impact.

CONFORMANCE WITH LORS

Calpine/Bechtel has demonstrated that the project will conform to all local, state and federal legal requirements (LORS) except for two areas—land use and visual resources. The areas of potential nonconformance are described below.

- Land Use—since the proposed site is planned for campus industrial uses and zoned for agriculture, Calpine/Bechtel has applied for a general plan amendment, rezoning of the land and annexation to the City of San Jose. This request is currently being reviewed by the City of San Jose and a vote by the City Council is expected in the fall, 2000. If the City of San Jose approves these requests, the project would be in conformance with the general plan.
- Land Use—the proposed project would be consistent with 23 applicable general plan strategies, policies, development guidelines and standards. The project would be inconsistent with three development guidelines. However, the environmental impacts of the project these guidelines are intended to avoid would be less than significant.
- Visual Resources—the project has the potential to conflict with a number of policies and guidelines adopted by the City of San Jose.

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ALTERNATIVES

It is important to note that the Energy Commission's authority is limited to either approving or denying the MEC at the site proposed by Calpine/Bechtel. The Commission does not have the authority to approve the project at one or more alternative sites or to require the Calpine/Bechtel to move the proposed project to another location. If Calpine/Bechtel decides to build a power plant at another site, other than the originally proposed site, a new Application for Certification must be filed and the review process would begin anew on that site. Considering the time it would take to develop a new AFC, the Energy Commission review process and construction time, a plant, if approved, would not begin producing electricity for the grid until 2005, at the earliest. Moreover, it is entirely conceivable that some or all of the alternative sites may, upon more rigorous examination, prove unsuitable.

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Staff's assessment describes a range of reasonable alternatives to the proposed project, or to the location of the project, that could feasibly attain most of the basic project objectives but would avoid or substantially lessen any of the significant effects of the project. The assessment also evaluates the comparative advantages and disadvantages of the various alternatives in less detail than the analysis of the project, but in a manner to inform the decision making process.

Staff identified and reviewed 17 alternative sites, all of which have their own set of unique issues and potential impacts. Several alternative sites appear to lessen the adverse land use and visual impacts associated with MEC. However, a project proposed for any one of these sites "would not be in conformance with all local land use requirements," and may have issues regarding environmental justice and visual impacts. Although the use of an alternative site may appear to lessen or avoid the impacts of the project, a more detailed site analysis may show otherwise. Since the alternative site analysis was less detailed than the FSA assessment of the MEC

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site, we would caution that a more rigorous AFC-type analysis of an alternative site could reveal additional non-conformity with LORS or environmental impacts that were missed during the more general alternatives analysis¹.

In addition, a project located at an alternative site would not meet the critical project objective of providing generation-based reliability improvements in the San Jose area in 2002 or as soon thereafter as possible. The Independent System Operator has identified MEC as a time-critical project. If approved and constructed, MEC would enhance the reliability of an imperiled electric system. Recent events have emphasized the need for more generation throughout the state to enhance reliability and relieve high prices driven by insufficient supply. The proposed project addresses this critical objective in the near term. The alternatives cannot.

RECOMMENDATIONS

After careful consideration, Energy Commission staff concludes that the benefits resulting from the approval of the Metcalf Energy Center would be substantial. The significant local electrical system benefits and consumer benefits, the use of reclaimed water for cooling, and the dedication in perpetuity of 130 acres of habitat for the endangered bay checkerspot butterfly outweigh the potentially significant visual and land-use impacts of the project. Therefore, considering the limitations of the electric transmission system to provide electric resources to the greater San Jose area, the acute need for reliable electricity to meet the increasing demands of a growing area, the mandate of the State to ensure a safe and reliable supply of electricity to maintain the health, safety and welfare of the people of the state and the state economy, and the timing and feasibility of the project relative to other alternatives, staff recommends approval of the project.

¹ It is exceedingly difficult to identify locations near load centers that are acceptable to the local community and do not have significant impacts. This is illustrated by the fact that there are few major generation sources in the greater San Jose area. This is further demonstrated by the fact that the Energy Commission does not have any other applications for permanent generation in the greater San Jose area even though the area's current load and expected load growth would benefit greatly by not one, but several other, new electric generation facilities.

Memo from
Gary Walker
discussing
problems with
the executive
summary

From: Gary Walker
To: Richins, Paul, Therkelsen, (home)
Subject: Problems with Executive Summary of Metcalf FSA

CC: Edwards, Dale, Haussler, Bob, Ichien, Arlene, J...

Gary

I think it is fair for you
to issue this memo. I just don't
know what positive result could come
from it.

Dale's
comments

Bob and Paul:

I just read the executive summary of the published Metcalf FSA. I was not in the review loop for that section, but I expected that it would accurately reflect the alternatives analysis and other sections. However, there are many inconsistencies between the executive summary and other sections due to inaccuracies and exaggeration in the executive summary.

In regard to alternatives, the executive summary (p.7) states that a plant at an alternative site "would not begin producing electricity for the grid until 2005, at the earliest." I calculated the earliest potential on-line date for a plant at an alternative site, based on the expected AFC decision date (March 2001, according to Roger), the range of the construction period for MEC (18-22 months, according to the Executive Summary), and the additional time required for preparation and processing of an AFC on a plant at an alternative site (18-30 months, according to Bob T.). These assumptions result in a range of on-line dates from March 2004 to June 2005. The earliest possible on-line date would thus have the project on line for the summer peak of 2004, a year earlier than the Executive Summary indicates.

The Executive Summary (p.7) states that a project at "any one of these sites would not be in conformance with all local land use requirements. This is not true for sites Alt-5 and Alt-6.

The Executive Summary (p.7) states that a project at any of the alternative sites "may have issues regarding environmental justice and visual impacts" (emphasis added). The alternatives analysis discusses environmental justice in regard to the alternative sites, but it does not state that they "may have issues." The potential for EJ issues is based on the potential for significant impacts, and staff's analysis states that no significant impacts are expected at alternative sites Alt-3, Alt-4, Alt-5 and Alt-6. Jim Adams, who wrote staff's EJ discussion, told me that to say that the use of an alternative site "may have issues regarding environmental justice" is a stretch. Raising the possibility of EJ issues for sites Alt-5 or Alt-6 is ludicrous based on the sparse population and its predominantly non-minority composition. Regarding visual impacts, the staff's analysis states that a plant at Alt-1 or Alt-2 would contribute with the Los Esteros Substation to a significant cumulative impact, but staff does not expect significant cumulative impacts at any of the other four sites and does not expect significant project-specific impacts at any of the sites, as the analysis states. Even a suggestion that visual impacts at Alt-5 or Alt-6 could somehow be significant is not credible, given its greatly degraded visual quality.

The Executive Summary (p.7) states that "the use of an alternative site "may appear to lessen or avoid the impacts of the project. This is a gross mischaracterization of the analysis. The alternatives section states that staff **expects** that use of an alternative site **would avoid** (not "may appear to lessen") the significant impacts of the project. Paul suggested the "may appear to lessen" wording for the alternatives section and I explained why it was not accurate, and it was not used in the alternative section. Its appearance in the Executive Summary is therefore not appropriate.

The Executive Summary also includes several important misleading statements, omissions, and inaccuracies outside the topic of alternatives. The introductory paragraph of the conclusions (p.4) states that staff has proposed conditions to ensure that potential impacts are mitigated "to the greatest extent feasible," but does not clarify that significant unmitigated land use and visual impacts remain.

The overview discussion of potential environmental impacts (p.5) states that "staff's analysis indicates that the project's environmental impacts are fully mitigated to levels of less than significant in all areas except for visual resources and land use" (emphasis added). I previously explained to Paul that adding "fully" is misleading and unnecessary. It can be construed to mean that the project with mitigation would have **no adverse** impact, rather than no **significant** adverse impact, in those subject areas.

?

I am not sure
this item is
worthy of inclusion
in your memo

The subsequent discussion of potential project impacts (p.6) only indirectly indicates in the introduction that the land use and visual impacts are **significant** impacts, the crucial criterion of CEQA; the word "significant" is not used in the heading or in the description of the specific impacts. The description of visual resources impacts also neglects to state that the direct impacts on the views from the Blanchard Road area would be impacts on residences.

The discussion of conformance with LORS (p.7) states in regard to land use that the project would be consistent with 23 applicable LORS and "would be inconsistent with three development guidelines." However, the land use analysis assesses the project as inconsistent with two guidelines and a standard.

The executive summary's conformance with LORS discussion in regard to visual resources is curiously less specific than in regard to land use. It discusses the project's inconsistency with "a number" of visual LORS rather than specifying the number: **sixteen**. The discussion is also inaccurate in stating that the project "has the potential" to conflict with these policies and guidelines. For most of the 16 inconsistencies, the visual resources analysis states that the project **would** cause the inconsistency or **is** inconsistent.

The recommendation (p.8) lists "dedication in perpetuity of 130 acres of habitat for the endangered bay checkerspot butterfly" as a benefit of the project. However, this is a mitigation for project impacts. Although it may have a net benefit, it is misleading to imply that it is a project enhancement rather than a mitigation measure.

The alternatives section of the FSA was substantially modified in response to multiple rounds of numerous comments by several reviewers, partly to ensure that it did not exaggerate the advantages and feasibility of the alternative sites. It does not appear that the Executive Summary was subjected to similar careful scrutiny in regard to the advantages of the proposed project. All of the inaccuracies, omissions, and exaggerations cited inflate the benefits of the proposed project in comparison to alternative sites. I am concerned that the Executive Summary therefore appears to lack objectivity and credibility. This can lead to immediate perception problems as well as to difficult questions regarding inconsistencies with

technical analyses during the hearings. Staff was instructed to be objective and factual in its analysis. The policy recommendation in the Executive Summary should rely on those facts. I therefore recommend that at least the most egregious of the inaccuracies and exaggerations be corrected immediately in an errata.

Gary

Memo from
Gary Walker
addressing
how executive
summary is
causing
misperceptions
in the Mercury
News

From: Gary Walker
To: Richins, Paul, Therkelsen, Bob
Date: 10/13/00 10:44AM
Subject: Re: First Evidence of Misperceptions Due to the MEC FSA Exec. Summary

Bob: Thank you for your response, which clearly describes your position. I am not questioning your decision to recommend approval of the project. I also understand your desire to clearly portray the uncertainty and potential problems associated with the alternative sites, which you indicate is done in the final version of the alternatives analysis. The purpose of both of my e-mails of yesterday was to provide information to you that can be used to strengthen staff's testimony, by suggesting changes that would make the executive summary consistent with the final version of the alternatives analysis and other testimony, and to alert you to potential adverse consequences of the existing language.

>>> Bob Therkelsen 10/13/00 08:58AM >>>

Gary - I partially agree and partially disagree with you. You are correct that "management" (translate that word as being me) has placed a greater emphasis on the electricity situation in the SF bay area and San Jose. The event of this summer, concerns of the ISO and analysis of our staff have shown that emphasis is warranted. The input from staff and further evaluation of the project resulting in the mitigation of several potential impacts and, in my opinion, more accurate portrayal of the remaining impacts also supported the "staffs" position that the electricity system benefits outweigh the impacts.

On the other hand, management (again translate that word as being me) did not agree with the tone and conclusiveness of earlier versions of the alternatives analysis. I did not feel the analysis was presented in an entirely balanced manner and did feel there were "flaws" in the earlier drafts. I said that to both you and the group. I also did not feel it reflected the views and concerns of "staff". As I also said in one of our sessions, the alternatives analysis must reflect the collective view of staff and that includes technical, policy, legal and management perspectives. Just as you received and incorporated input from technical staff, the input from legal, project management, and division management staff also needed to be received and incorporated. I feel the final alternatives document achieved that. The unfortunate error we made, in my opinion, was sending out the PSA without providing time for review and for working out the issues. As I also said earlier, that will never happen again.

I am not particularly concerned about the comments of the press. I am concerned that we have a clear, objective and factual based analysis and that we present a unified staff position in the workshops and hearings. We need to focus on achieving that. With respect to alternatives, we will need to schedule a premeeting to make sure we are all presenting that position.

If you or others want to discuss my comments further, I will make myself available. -bt

>>> Gary Walker 10/12/00 07:00PM >>>

I have just learned of the first example of the kind of misperception of the Metcalf FSA that I warned about in my previous e-mail of today. That misperception, apparently based on reading the Executive Summary of the FSA and a phone conversation with Paul Richins, appears in the San Jose Mercury News article of October 11, 2000, which I just read at the Commission's website. The article says in part:

"Calpine Corp. cleared a crucial hurdle Tuesday in its battle to build a power plant in San Jose's Coyote Valley when California Energy Commission analysts backed away from earlier concerns and recommended the project's approval. [emphasis added]

"A preliminary report by the commission's staff in May cited serious concerns about the 600-megawatt Metcalf Energy Center and suggested a half-dozen other locations would be better.

"Analysts who in May suggested that a half-dozen alternative sites, such as North San Jose or Fremont, would be preferable backed away from that conclusion in their final report. They concluded that the

alternatives also may prove flawed under more detailed scrutiny." [emphasis added]

The writer has clearly been swayed by the cautionary wording that was added to the alternatives section and reflected in the executive summary of the FSA. Unbeknownst to the writer, that wording applies to any alternative evaluated for any project, and at least in the case of sites Alt-3, Alt-4, Alt-5, and Alt-6 no new information has emerged since the PSA that indicates additional problems with the sites. Staff has not "backed away" from its concerns.

The quote attributed to Paul Richins that "There are certain issues associated with those six alternatives, so none of them are totally clean" does not address the primary reason that management recommended approval of MEC: because it would provide needed power sooner than a plant at any alternative site. We all knew that from the day the AFC was filed; management has simply given that factor increased emphasis.

The Mercury News writer has widely disseminated a distorted view of staff's analysis and reasoning, and failure to correct the Executive Summary's inaccuracies, and to accurately explain in response to public inquiries management's reasoning in recommending approval of the project, will only perpetuate such misconceptions.

CC: Edwards, Dale, Haussler, Bob, Ichien, Arlene, J...

Eric Knight
memo that
alternative
sites would
avoid land use
impacts

From: Eric Knight
To: Richins, Paul, Therkelsen, Bob, Walker, Gary
Date: 9/25/00 4:24PM
Subject: Re: Alternatives

I need to correct my previous response. I should have said that all of the alternative sites would **avoid**, rather than reduce, some or all of the land use impacts. For instance sites 3-6 would avoid the impacts to Important Farmlands and would not require GP/Zoning changes. Although sites 1 and 2 would require GP/Zoning changes, and have significant impacts on Important Farmlands, a power plant would likely be able to meet the applicable development standards (not as stringent as the Coyote Valley Master Plan), and would avoid the incompatibility conflicts (visual) of the proposed project (views would already be substantially degraded by Los Esteros Substation).

>>> Gary Walker 09/25/00 03:09PM >>>
Paul -

I think that you have an incorrect understanding of Eric's land use analysis. You characterize the land use issues as only relating to conformity with LORS, not significant environmental impacts. However, my understanding is that the nonconformity with LORS, because it concerns nonconformity with local land use plans and policies, is itself a significant environmental impact, and that the project would also cause significant land use impacts both in regard to the loss of prime farmland and incompatibility with nearby land uses (due to the significant visual impacts on the Blanchard Road residences). I am asking Eric for confirmation of this.

Gary

>> Paul Richins 09/25/00 08:56AM >>>
Bob and Gary,

Bob, thanks for your comments and feedback. Regarding the suggested conclusion, I have included the following statement in the Executive Summary. Please note the cautionary note in the last sentence. I believe such wording should also be included in the Alternatives section.

From the Executive: "In the alternatives analysis, staff identified several alternative sites that we believe may avoid or substantially lessen the significant effects of the MEC. While the use of an alternative site may lessen the visual and land use??? impacts associated with the proposed project site, the alternative site analysis was general and less rigorous than the assessment of the MEC site. We would therefore caution that a rigorous AFC analysis of the alternative sites could reveal potential fatal flaws, non-conformity with LORS, and environmental impacts."

My understanding is that the Land Use issue is a nonconformance with LORS issues not an environmental impact issue and that sites 1 and 2 are not zoned appropriately. **Legal Office**, is the lessening of a nonconformance with LORS a part of the alternatives analysis trigger (avoid or substantially lessen the significant effects of the project?) or is it limited to environmental impacts. We may also have a nonconformance with LORS matter for water resources as well?

Paul---

>>> Bob Therkelsen 09/25/00 08:28AM >>>

Gary - I looked at the latest draft of the alternatives section this weekend. I felt the organization was improved. I am concerned about the conclusion section at the beginning. I felt it should be more specific on what we concluded. I also do not feel it (or other portions of the text) should use the words "environmentally preferable". That term is not included in CEQA and can easily give an incorrect impression to the reader. (I don't recall that

we have used it in the past nor have I seen it in other EIRs.) Attached is a suggested rewrite of the opening conclusion section that I think is more precise.

The summary on page 59 should be parallel to the conclusion section if it is rewritten.

As you noted on the draft, many of the technical areas have not been updated. I assume this will primarily impact flooding at the proposed project site, biology, and water.

I did not see any discussion on the relative transmission or system benefits of the alternatives compared with the proposed project. Is that going to be included?

Oh, footnote 3 is missing and there are some typos on page 65.

-bt

CC: Ichien, Arlene, Johnson, Roger E., Ratliff, Dick...

Eric Knight
memo
discussing
MEC land use
impacts

From: Eric Knight
To: Richins, Paul, Therkelsen, Bob, Walker, Gary
Date: 9/25/00 3:21PM
Subject: Re: Alternatives

Gary et. al.,

You are correct, there is more than just nonconformance with LORS, which actually is an "environmental impact" since it's included in the CEQA environmental checklist under the topic of Land Use and Planning.

Other significant land use impacts are:

1. The MEC will cause a significant impact on prime farmland (as defined by the Resources Agency). CEQA is silent on the number of acres that would constitute a significant impact. The question in the checklist is whether the project would convert important farmlands to non-ag use, not that it be a "substantial" or "significant" loss. Most other questions in the checklist use these qualifiers. To determine significance, past practice by CEC staff is to look to the local jurisdiction for guidance. In the Sutter case, Sutter County considered a "substantial" loss of prime farmland to be significant (General Plan policy). Thus, CEC found the impact to be insignificant since it wasn't a "substantial" loss. Santa Clara County considers the loss of 10 acres or more of class I and II soils to be significant, and the City of San Jose considers any loss of prime farmland to be significant (both agencies use this criteria in their EIRs). This is consistent with PG&E's EIR for the Los Esteros Substation, which found the impact of converting 23 acres of prime farmland to be significant under CEQA (also in Santa Clara County, and within San Jose Urban Services Area).

2. CEC staff also evaluates whether a project will be compatible with existing and planned uses. According to our criteria, a project can cause incompatibility conflicts if it creates unmitigated noise, dust, public health hazard or nuisance, traffic or visual impacts. In this case, staff has found that the visual effects on the existing uses are unmitigable (the project will substantially degrade the moderate-to-high quality views of those residences closest to the project). In addition, the project as proposed is visually incompatible with planned uses (i.e., high-quality campus industrial uses, such as Cisco). Other indirect land use impacts, such as noise, public health hazard, and traffic, can be mitigated.

All of the alternative sites can reduce some or all of these land use impacts (i.e., nonconformance with LORS and compatibility conflicts).

Eric

>>> Gary Walker 09/25/00 03:09PM >>>
Paul -

I think that you have an incorrect understanding of Eric's land use analysis. You characterize the land use issues as only relating to conformity with LORS, not significant environmental impacts. However, my understanding is that the nonconformity with LORS, because it concerns nonconformity with local land use plans and policies, is itself a significant environmental impact, and that the project would also cause significant land use impacts both in regard to the loss of prime farmland and incompatibility with nearby land uses (due to the significant visual impacts on the Blanchard Road residences). I am asking Eric for confirmation of this.

Gary

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Bob and Gary,

Bob, thanks for your comments and feedback. Regarding the suggested conclusion, I have included the following statement in the Executive Summary. Please note the cautionary note in the last sentence. I believe such wording should also be included in the Alternatives section.

From the Executive: *"In the alternatives analysis, staff identified several alternative sites that we believe may avoid or substantially lessen the significant effects of the MEC. While the use of an alternative site may lessen the visual and land use??? impacts associated with the proposed project site, the alternative site analysis was general and less rigorous than the assessment of the MEC site. We would therefore caution that a rigorous AFC analysis of the alternative sites could reveal potential fatal flaws, non-conformity with LORS, and environmental impacts."*

My understanding is that the Land Use issue is a nonconformance with LORS issues not an environmental impact issue and that sites 1 and 2 are not zoned appropriately. Legal Office, Is the lessening of a nonconformance with LORS a part of the alternatives analysis trigger (avoid or substantially lessen the significant effects of the project?) or is it limited to environmental impacts. We may also have a nonconformance with LORS matter for water resources as well?

Paul---

>>> Bob Therkelsen 09/25/00 08:28AM >>>

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-bt

CC: Ichien, Arlene, Johnson, Roger E., Ratliff, Dick...

From: Eric Knight
To: Richins, Paul, Therkelsen, Bob, Walker, Gary
Date: 9/25/00 2:57PM
Subject: Re: Alternatives

Paul,

I should clarify what impacts I've identified in Land Use. There is more than just nonconformance with LORS, which is an "environmental impact" since it's included in the CEQA environmental checklist under the topic of Land Use and Planning.

Other significant land use impacts are:

1. The MEC will cause a significant impact on prime farmland (as defined by the Resources Agency). While CEQA is silent on the number of acres that would constitute a significant impact, past practice by CEC staff is to look to the local jurisdiction for guidance. In the Sutter case, Sutter County considered a "substantial" loss of prime farmland to be significant (General Plan policy). Thus, CEC found the impact to be insignificant since it wasn't a "substantial" loss. Santa Clara County considers the loss of 10 acres or more of class I and II soils to be significant, and the City of San Jose considers any loss of prime farmland to be significant (both agencies use this criteria in their EIRs).

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All of the alternative sites can reduce some or all of these land use impacts (i.e., nonconformance with LORS and compatibility conflicts).

Eric

>>> Paul Richins 09/25/00 08:56AM >>>
Bob and Gary,

Bob, thanks for your comments and feedback. Regarding the suggested conclusion, I have included the following statement in the Executive Summary. Please note the cautionary note in the last sentence. I believe such wording should also be included in the Alternatives section.

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-bt

CC: Ichien, Arlene, Johnson, Roger E., Ratliff, Dick...

Memo from
CEC Lawyer
concerned
about CEC
Staff's
unsupported
claims of
health
problems if
MEC not built

From: Kerry Willis
To: Arlene Ichien; Dick Ratliff; Gary Walker; Paul ...
Date: 10/4/00 9:43AM
Subject: Comments on Rick's Section

Rick,

I had a fair amount of comments on this section. Mostly, I'm concerned about statements that are unsupported by any facts. Stop by if you'd like to discuss.

Thanks.

Kerry

There is little doubt that the western region of the United States is suffering from a significant electrical supply shortage. Nowhere is this more apparent than in the greater Bay Area. (What about San Diego?) These shortages have led to a major disruption of customer service this summer and may lead to future disruption of service in the future.

Currently, electrical energy production in the area surrounding the Metcalf Project is insufficient to meet demand for power during peak load periods. While generating capacity may exist elsewhere in the state, it is currently impossible (is this too strong—is it impossible or difficult?) to get the power to many locations in the Bay Area due to transmission constraints. The proposed project would significantly reduce supply problems in the Bay Area.

In evaluating any project during this period of critical need, it should be recognized that rejection of a project does not necessarily mean that the risk of impact (what impact—environmental? Black outs? Safety?) is avoided. Rejection of the Metcalf project would simply mean that a project with similar potential impacts would need to be sited elsewhere in the Bay Area or that the problem would go unresolved for a longer period of time. For projects, such as MEC, with minimal unmitigated impacts, there is little potential for benefit in changing its the project location as to avoided impacts on the environment or the public, from one site to the next are marginal. Under the new deregulated market, it should not be assumed that a new and better project would automatically be proposed to immediately replace this one if it is rejected. (Is this consistent with Ross Miller's earlier comments? I thought he said that it should be assumed the same market forces that encouraged Calpine to apply for this AFC would encourage an
reinforcement of the current perception
any power plant project in the Bay Area
don't know who has this perception, e
United, etc. Even Calpine is looking f

At a best, rejection of the Metcalf project would mean a loss of generating capacity in the Bay Area. Impacts (once again, what are these than those associated with approval circumstances in the greater Bay Area the risks of power outages, delays and safety impacts. For example, if a power plant is rejected, it can have profound effects on the public, particularly on those with chronic obstructive pulmonary disease or acute health effects such as stroke really a big problem in San Francisco?) It is widely recognized that extreme weather conditions (once again, the Bay Area rarely has extreme weather conditions and if the temperatures rise to a 100, it usually doesn't last like it does here.) can significantly increase both morbidity and mortality particularly among sensitive populations such as the very young, the elderly and those with chronic diseases. Thus, overload and failure of electrical supply systems can impose risk of very serious impacts on the public even increasing the risk of a significant number of deaths. There is also the potential for serious economic loss during any future

*Kerry's 10/04/00
comments on
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- "No Project"*

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~~There is little doubt that~~ the western region of the United States is suffering from a significant electrical supply shortage. Nowhere is this more apparent than in the greater Bay Area. (What about San Diego?) These shortages have led to a major disruption of customer service this summer and may lead to future disruption of service in the future.

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In evaluating any project during this period of critical need, it should be recognized that rejection of a project does not necessarily mean that the risk of impact (what impact—environmental? Black outs? Safety?) is avoided. Rejection of the Metcalf project would simply mean that a project with similar potential impacts would need to be sited elsewhere in the Bay Area or that the problem would go unresolved for a longer period of time. For projects, such as MEC, with minimal unmitigated impacts, there is little potential for benefit in changing ~~the project location as to~~ avoided impacts on the environment or the public, ~~from one site to the next are marginal.~~ Under the new deregulated market, it should not be assumed that a new and better project would automatically be proposed to immediately replace this one if it is rejected. (Is this consistent with Ross Miller's earlier comments? I thought he said that it should be assumed the same market forces that encouraged Calpine to apply for this AFC would encourage another applicant to do the same??) ~~In fact reinforcement of the current perception that it is impossible to obtain an approval of any power plant project in the Bay Area may delay future proposals indefinitely. (I don't know who has this perception, especially in light of the east Bay plants and United, etc. Even Calpine is looking to put in a plant in North San Jose.)~~

~~At a best~~ Rejection of the Metcalf project would delay development of new generating capacity in the Bay Area. ~~At worst it could~~ even result in adverse impacts (once again, what are these impacts???) that are potentially much worse than those associated with approval of the Metcalf project. Given the current circumstances in the greater Bay Area where delay of energy projects can increase the risks of power outages, delays can have both significant economic and public safety impacts. For example, if a power outage occurs during a period of extreme heat, it can have profound effects on sensitive populations that are dependent on air conditioning to avoid aggravation of chronic health conditions such as chronic obstructive pulmonary disease or acute health effects such as heat stroke. (Is heat stroke really a big problem in San Francisco?) It is widely recognized that extreme weather conditions (once again, the Bay Area rarely has extreme weather conditions and if the temperatures rise to a 100, it usually doesn't last like it does here.) can significantly increase both morbidity and mortality particularly among sensitive populations such as the very young, the elderly and those with chronic diseases. Thus, overload and failure of electrical supply systems can impose risk of very serious impacts on the public even increasing the risk of a significant number of deaths. There is also the potential for serious economic loss during any future

outage. If the current supply problem persists, it could eventually slow economic growth in one of the most prosperous areas of the state. The decision on the Metcalf project should not be made in the absence of considering the potential for serious adverse impacts of the no project alternative.

Rick—I think your argument about extreme weather conditions impacting the health of the elderly, young and sick is not a strong one. Too many decades ago, I wrote my Master's thesis on alternative energy and impacts to low-income, the elderly etc. focusing on the extreme weather conditions of the Northeast and the high price of heating oil, etc. It's really cold there in the winter and there were plenty of statistics of people dying of hypothermia. The Bay Area has an overall very mild climate. The argument that, without MEC, elderly and sick will be dying is not supported by any facts in this section. If you have some facts, please use them. If not, I would delete this whole argument. However, the part on economic loss can be supported by facts, especially in light of the heavy reliance on computers in the Bay Area. When I worked for the City of Roseville's electric utility, keeping NEC and H-P on at times was a first priority. We were often told how much it cost each company if they had to shut down operations for any length of time.

CAISO
"Domino
Theory" Memo
from Peter
Mackin
regarding Bay
Area Power
Plants

From: "Mackin, Peter" <PMackin@caiso.com>
To: "'Gary Walker'" <Gdwalker@energy.state.ca.us>
Date: 10/3/00 8:57PM
Subject: RE: Fwd: please find attached my parigraph onthe no project alternative.

Gary,

Since you welcomed all responses, I just had to weigh in. ;-)

I have some thoughts on people's perceptions regarding Bay Area power plant approvals. I would suggest that it is possible the current siting cases before the commission (i.e., Potrero, Contra Costa, and the yet to be filed United Golden Gate) are simply place holders in a queue for power plant licensing. We may find that if MEC is rejected by the Commission, that some of these other proposals, if faced with significant local opposition, may be withdrawn. On the other hand, if the MEC is approved (assuming the identified benefits exceed any identified unmitigated impacts), these projects may continue on to completion because the applicants know that if they can demonstrate overriding local benefits a potential unmitigated impact (such as nonconformance with LORS) will not be a enough to kill their projects.

I would disagree with the statement that developers don't share the perception about the difficulties of siting power plants in the Bay Area. There are relatively few proposals for power plants in the Bay Area before the Commission (and two of the four are brownfield proposals) Considering that the Bay area has almost 25% of the ISO controlled grid's load, I would have expected to see at least 25% of the proposals before the commission being located in the Bay Area.

I don't think my alternative scenario is any more speculative than the expectation that all of the other current Bay Area generation proposals will continue to completion and be approved by the Commission if MEC is not approved.

Just my \$.02.

Peter

R. Peter Mackin, P.E.
Senior Grid Planning Engineer
California ISO
P.O. Box 639014
Folsom, CA 95763-9014
Phone: (916) 351-2119

-----Original Message-----

From: Gary Walker [mailto:Gdwalker@energy.state.ca.us]
Sent: Tuesday, October 03, 2000 8:27 PM
To: Paul Richins
Cc: PMackin@caiso.com; Arlene Ichien; Al McCuen; Bob Haussler; Bob Strand; Bob Therkelsen; Charles Vartanian; Dale Edwards; Dick Ratliff; Kerry Willis; Laiping Ng; Roger E. Johnson; Rick Tyler
Subject: Re: Fwd: please find attached my parigraph onthe no project

alternative.

Thank you for forwarding Rick Tyler's "Comments on Draft Alternatives Testimony" regarding the "no project" alternative. I will forward them to the LSE staff so that they can verify their technical accuracy regarding local system effects.

The comments regarding potential public health impacts if the Metcalf project is not approved are relevant to consideration of the "no project" alternative and I will incorporate them in the alternatives testimony. However, I have major concerns regarding several of the other comments.

The comments regarding environmental impacts contain a number of statements that are incorrect and contrary to staff's testimony in other subject areas. For instance, the comment states that "rejection of the Metcalf project would simply mean that a project with similar impacts [emphasis added] would need to be sited elsewhere in the Bay Area or that the problem would go unresolved for a longer period of time." Staff testimony regarding land use and visual resources has found that MEC would cause significant unmitigated impacts, and staff has found that alternative sites exist that could avoid one or more of those significant impacts. Therefore, the impacts would not be similar to those of MEC. The subsequent statement that "for projects with minimal [emphasis added] unmitigated impacts there is little potential for benefit in changing its location as avoided impact on the environment or the public from one site to the next are marginal" does not apply to the Metcalf project so it is inappropriate for inclusion in the testimony.

The comment also states that "reinforcement of the current perception that it is impossible to obtain an approval of any power plant project in the Bay Area may delay future proposals indefinitely." This statement is not supported by any evidence that this is "the current perception" and does not specify who, if anyone, may have that perception. The statement that reinforcement of such a perception "may delay future proposals indefinitely" is speculative and is refuted by recent, current, and expected siting cases. The Commission has recently approved two projects in Pittsburg, is processing one in Antioch (Contra Costa) and one on the San Francisco peninsula (Potrero), and is expecting two more applications very soon for projects on the peninsula (United Golden Gate). It is clear that power plant developers do not share "the current perception."

The topic of economic loss mentioned in the comment is already addressed in the alternatives section. The comment's statement that "if the current supply problem persists it could eventually slow economic growth in one of the most prosperous areas of the state," while possibly true, may not be appropriate because it implies that a slower rate of growth would be an adverse consequence, a position that is questionable and may not conform to state policy. Recent rapid growth in the Bay Area has had many serious adverse consequences, including traffic, air pollution, public health, housing, land use, and energy problems.

Any responses are welcomed.

Gary

>>> Paul Richins 10/03/00 03:25PM >>>

As we discussed in the meeting today, here is the discussion prepared by Rick T for inclusion in Alternatives, the no project alternative.

Paul---

CC: Arlene Ichien <Aichien@energy.state.ca.us>, "McCue...

Eric Knight - Re: Legislative Briefing

From: Obed Odoemelam
 To: Al McCuen; Bob Anderson; Dick Ratliff; Dorothy Torres; Gary Reinoehl; Gary Walker; Hann, Kathi; internet:joed@jsanet.com; Internet:s.brown@fehrrandpeers.com; internet:tmurphy@aspeng.com; Jim Adams; Jim Brownell; Joe O'Hagan; Kerry Willis; Knight, Eric; Linda Spiegel; Lisa DeCarlo; Luz Manriquez-Uresti; M. Kisabuli; Magdy Badr; Mike Ringer; Paul Richins; Richins, Paul; Rick Tyler; Steve Baker; Steve Munro; White, Lorraine
 Date: 10/25/00 2:37 PM
 Subject: Re: Legislative Briefing
 CC: Arlene Ichien; Bob Haussler; Bob Strand; Dale Edwards; Roger E. Johnson

Paul,

There is nothing inappropriate about using "fully mitigated" in connection with our projects. When the residual impacts are at insignificant levels, mitigation should be considered complete with due regard to the driving issue of practicability. We should not be defensive about such conclusions.

>>> Gary Walker 10/25/00 11:46AM >>>

Paul:

In response to your request for review of the material from the executive summary of the MEC FSA to be used for the legislative briefing, I have the following comments.

The table of environmental impacts and LORS compliance designates the environmental impacts for several subject areas as "fully mitigated." As I pointed out in my October 12 email to you, this wording means that the project with mitigation not only would not have significant effects, but that it would not have any residual adverse impact. The accompanying text from the executive summary states that the impacts "are fully mitigated to levels of less than significant." If the impacts are only mitigated to less than significant, they are not "fully" mitigated. It is more accurate and sufficient to state that the impacts "are mitigated to levels of less than significant." The term "fully mitigated" is not accurate unless technical staff has concluded in the FSA that the project would not have any residual adverse impacts. Even if that is the case, in my experience as a project manager and technical analyst I do not recall that the term "fully mitigated" has ever been used by any applicant or the staff. The term is not in CEQA or the CEQA guidelines and implies a higher standard of mitigation than CEQA requires. I therefore recommend that the term not be used for this or any other case. I suggest that the term "fully mitigated" in the table be replaced by "mitigated to less than significant," and that the word "fully" be deleted from the phrase "fully mitigated to levels of less than significant" in the text.

The table does not include the significant unmitigated impact due to the conversion of prime farmland.

In regard to conformance with LORS, the text states concerning land use that the project would be inconsistent with three development guidelines. As I explained in my October 12 e-mail, the land use analysis instead states that the project would be inconsistent with one development standard and two development guidelines. This difference is important because design standards are more specific than design guidelines.

The LORS text concerning visual resources states that the project "has the potential to" conflict with a number of policies and guidelines adopted by the City of San Jose. As I pointed out in my October 12 email, the visual resources analysis states that the project would cause the inconsistency or is inconsistent with the policies and guidelines, not that it "has the potential to" do so. The more tentative language understates the importance of the inconsistencies. In addition, the wording used in the executive summary regarding land use inconsistencies is "would." It is not consistent to use more tentative language for visual resources.

Gary

>>> Paul Richins 10/25/00 08:35AM >>>

Bob and I will be briefing Senator Vasconcellos and others assemblyman and senators and the mayor of San Jose next week. Among other things, Bob would like us to update the attached chart. The attached chart is in the FSA Executive Summary but does not include the right column. We are adding this column for the briefing. Please review and let me know if I should add or delete items. The idea is not to include all issues resolved but to hit the high points.

I will need your feedback by noon on tomorrow, 10/26.

Joe O'--can you look at this quickly in Lorraine's absence.

Paul--

Memo from
Gary Walker
defending
alternatives
testimony

From: Gary Walker
To: Therkelsen, Bob
Date: 9/25/00 11:24AM
Subject: Re: Alternatives

Bob - Thank you for your comments. I plan to incorporate your suggested wording into my revised draft. However, I think that it is essential to tell the decisionmakers more about the environmental characteristics of the alternatives than just the potential significant impacts of the proposed project that the alternatives may avoid or substantially lessen. I addressed the topic of environmental preferability because it is crucial for the decisionmakers to also know whether the alternatives would cause any significant environmental impacts that the proposed project would not cause. The environmental preferability discussion addresses this broader issue of a summary environmental comparison, considering both the environmental advantages and disadvantages of the alternatives compared to the proposed project. Perhaps it needs to contain more explanation and details.

>>> Bob Therkelsen 09/25/00 08:28AM >>>

Gary - I looked at the latest draft of the alternatives section this weekend. I felt the organization was improved. I am concerned about the conclusion section at the beginning. I felt it should be more specific on what we concluded. I also do not feel it (or other portions of the text) should use the words "environmentally preferable". That term is not included in CEQA and can easily give an incorrect impression to the reader. (I don't recall that we have used it in the past nor have I seen it in other EIRs.) Attached is a suggested rewrite of the opening conclusion section that I think is more precise.

The summary on page 59 should be parallel to the conclusion section if it is rewritten.

As you noted on the draft, many of the technical areas have not been updated. I assume this will primarily impact flooding at the proposed project site, biology, and water.

I did not see any discussion on the relative transmission or system benefits of the alternatives compared with the proposed project. Is that going to be included?

Oh, footnote 3 is missing and there are some typos on page 65.

-bt

CC: Ichien, Arlene, Ratliff, Dick, Richins, Paul, W...

Markup of
memo from
Bob Therkelsen

From: Bob Therkelsen
To: Gary Walker; Paul Richins
Date: 9/25/00 9:22AM
Subject: Re: Alternatives

Paul - The only problem I have with your statement in bold is that I hope we have caught all the "fatal flaws" with our quick review. I think it is correct that because of the nature of our examination of the alternatives, there is the potential that we did not find all the LORS or environmental issues. -bt

>>> Paul Richins 09/25/00 08:56AM >>>
Bob and Gary,

Bob, thanks for your comments and feedback. Regarding the suggested conclusion, I have included the following statement in the Executive Summary. Please note the cautionary note in the last sentence. I believe such wording should also be included in the Alternatives section.

From the Executive: ^{would} ***"In the alternatives analysis, staff identified several alternative sites that ~~we~~ believe ~~may~~ avoid or substantially lessen the significant effects of the MEC. While the use of an alternative site ~~may~~ lessen the visual and land use??? impacts associated with the proposed project site, the alternative site analysis was general and less rigorous than the assessment of the MEC site. We would therefore caution that a rigorous AFC analysis of the alternative sites could reveal potential fatal flaws, non-conformity with LORS, and environmental impacts."***

My understanding is that the Land Use issue is a nonconformance with LORS issues not an environmental impact issue and that sites 1 and 2 are not zoned appropriately. Legal Office, Is the lessening of a nonconformance with LORS a part of the alternatives analysis trigger (avoid or substantially lessen the significant effects of the project?) or is it limited to environmental impacts. We may also have a nonconformance with LORS matter for water resources as well?

Paul---

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-bt

CC: Arlene Ichien; Dick Ratliff; Kerry Willis; Roge...

Memorandum from
Bob Therkelsen
discussing
"fatal flaws" not
found in quick
review of
alternative sites

From: Bob Therkelsen
To: Gary Walker; Paul Richins
Date: 9/25/00 9:22AM
Subject: Re: Alternatives

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-bt

CC: Arlene Ichien; Dick Ratliff; Kerry Willis; Roge...

ALTERNATIVES

Testimony of Gary D. Walker

INTRODUCTION

The purpose of staff's alternatives analysis is to assess alternatives that could feasibly attain the project's objectives and avoid or substantially lessen one or more of the significant effects of the project. The analysis also identifies and compares the impacts of the various alternatives but in less detail than the proposed project. If the Energy Commission identifies an alternative that meets these criteria, it does not have the authority to approve the alternative or require Calpine/Bechtel to move the proposed project to another location. If a project is proposed at one of the alternative sites, a new Application for Certification must be filed on that site and a new review process would ensue.

CONCLUSIONS

Staff's alternatives analysis considered 17 sites to determine if any alternatives could feasibly attain most of the project's objectives and avoid or substantially lessen the significant unmitigated adverse impacts of the proposed project. [All but six of these sites were eliminated because of readily apparent impact or feasibility issues¹. The remaining six sites were reviewed by staff at a screening or "fatal flaw level of analysis"²]

NO
- Mistake in g

The applicant's primary objectives for the project were selling electricity into California's electricity market congestion benefits within the summer of 2002. None of the summer of 2002,³ assuming application preparation, one staff and the California Independent objective in light of California alternative sites (Alt-1, Alt-2 objectives to a greater or lesser

Gary's handwritten
comments on
ALTERNATIVES-2.doc,
dated 10/10/00
at 1:22 PM

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¹ An important consideration in staff analysis, staff briefly investigated control may be possible but this is specific site.

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² A more rigorous AFC-level analysis of any of the alternative site could reveal environmental impacts; non-conformity with laws, ordinances, regulations, and standards; or potential mitigation that were not identified during the more general alternatives analysis.

³ It is also unlikely that the proposed project will be able to begin operation in the summer of 2002 due to changes made in the project description by the applicant during the permitting process. The proposed project, however, could become operational approximately 18 to 30 months prior to any of the alternatives.

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NO
- Mistake in g

The applicant's primary objectives for the project were selling electricity into California's electricity market, providing electric system reliability and transmission congestion benefits within the San Francisco Bay Area, and being on-line by the summer of 2002. None of the alternatives meet the objective of being on-line by the summer of 2002,³ assuming the additional time to complete site engineering and application preparation, one year for permitting, and two years for construction. [The staff and the California Independent System operator believe this is an important objective in light of California's current electricity supply situation.] Four of the alternative sites (Alt-1, Alt-2, Alt-3, and Alt-4) would achieve the remaining objectives to a greater or lesser degree than the proposed project.

¹ An important consideration in studying alternatives is site availability and site control. In this analysis, staff briefly investigated the availability of the various alternative sites and believes site control may be possible but this is in constant flux since many factors influence the availability of a specific site.

² A more rigorous AFC-level analysis of any of the alternative site could reveal environmental impacts; non-conformity with laws, ordinances, regulations, and standards; or potential mitigation that were not identified during the more general alternatives analysis.

³ It is also unlikely that the proposed project will be able to begin operation in the summer of 2002 due to changes made in the project description by the applicant during the permitting process. The proposed project, however, could become operational approximately 18 to 30 months prior to any of the alternatives.

NO

The Commission staff identified ^(two) significant adverse impacts associated with the proposed project in visual resources and land use. Based on the staff's screening or "fatal flaw" level of review, alternative site Alt-1 or Alt-2 will have significant adverse impacts associated with the loss of prime farmland and may have significant adverse cumulative visual impacts. These sites also have current land use noncompliance and would require a General Plan amendment and zoning change which may or may not be approved by the local government. They are feasible only if PG&E's proposed Los Esteros substation is approved and constructed. Alternative site Alt-3 or Alt-4, based on the screening level of review, is expected to avoid the Metcalf projects significant impacts and may not result in any significant environmental impacts. These sites would not require a General Plan amendment but have current land use (height restrictions) noncompliance which may or may not be corrected by the local government. Use of alternative site Alt-5 or Alt-6 is expected, based on this level of review, to avoid the significant unmitigated environmental impacts of the proposed project. They would not require a General Plan or zoning change and may cause significant adverse biological impacts to listed species, water supply impacts, and water discharge impacts.

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The "no project" alternative would avoid most of the significant environmental impacts of the proposed project but may cause environmental impacts of its own that could be significant, including public health impacts. The no project alternative may have economic costs that the project would avoid and greater risk of economic and social costs. The no project alternative would not meet most of the objectives of the proposed project.

All other alternatives are either infeasible, would not avoid the significant impacts of the proposed project, or would cause greater environmental impacts than the proposed project. These include other alternative sites as well as technology alternatives and alternative generating capacities.

APPROACH

As a lead agency under CEQA, the Energy Commission is required to identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1). The Commission staff used the "Guidelines for Implementation of the California Environmental Quality Act," as a guide in preparing this analysis. These guidelines state that the alternatives discussion "shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives" (Section 15126.6 (a)). This discussion "...shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly" (Section 15126.6 (b)). The guidelines also state that "the range of potential alternatives to the proposed project shall include those that could feasibly

THE "NO PROJECT" ALTERNATIVE

CEQA Guidelines and Energy Commission regulations require consideration of the "No Project" alternative. This alternative assumes that the project is not built. "The 'no project' analysis shall discuss the existing conditions at the time . . . the environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans and consistent with available infrastructure and community services." (Title 14, California Code of Regulations, §15126.6(e)(2).) The "no project" alternative ~~is compared to the proposed project and determined to be superior, equivalent, or inferior to it.~~ *to be*

In the AFC (MEC 1999a, p.9-1) the applicant stated that if the project is not constructed and operated,

"energy that would have been produced by the proposed facility would need to be generated by another available source; common available sources include older power generation facilities that operate inefficiently and release larger quantities of air pollutants."

"The purpose of a merchant power plant, such as MEC, is to generate and sell electricity to deregulated markets. The California market was deregulated on March 31, 1998..."

"The 'No Project' alternative does not meet the objectives of the applicant's business plans for the project or the general objectives of the Energy Commission."

se it does not meet the objectives of Calpine/Bechtel's generation facilities, generation facilities."

The applicant also states that emissions for each energy fuel generation facilities i

Paul's initial comments on the No Project alt. for the EISA

charge of fewer air emitting, older fossil

Energy Commission staff If the MEC project is not proposed will encourage quite feasible that a substantial even in the absence of this plants to be filled with or with the total amount of capacity actually built would differ substantially, with or without this project.

or several reasons. argued it to be infeasible. It is not clear why it will be proposed in California's need for new

It follows then, that the extent to which retired, nuclear and fossil generation resources will be replaced by new resources can be expected to be ~~the same~~ substantially the same with or without this project. Similarly, ~~the~~ extent to which generation from existing power plants would consume fuel and emit pollutants would be substantially the same

Suggest deleting this

THE "NO PROJECT" ALTERNATIVE

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"energy that would have been produced by the proposed facility would need to be generated by another available source; common available sources include older power generation facilities that operate inefficiently and release larger quantities of air pollutants."

"The purpose of a merchant power plant, such as MEC, is to generate and sell electricity to deregulated markets. The California market was deregulated on March 31, 1998..."

"The 'No Project' alternative is not considered feasible because it does not meet the objectives of a deregulated energy market, nor does it meet Calpine/Bechtel's business plans for the development of new merchant power generation facilities, or the general objective of replacing existing, less efficient generation facilities."

The applicant also states that MEC's consumption of less fuel and discharge of fewer air emissions for each energy unit generated when compared to other existing, older fossil fuel generation facilities is a beneficial environmental impact.

Energy Commission staff does not agree with the applicant's position for several reasons. If the MEC project is not built, the same market conditions that encouraged it to be proposed will encourage others. ~~Therefore, the "no project" alternative is feasible.~~ It is quite feasible that a substantial amount of additional generating capacity will be proposed even in the absence of this project. Staff can reasonably expect California's need for new plants to be filled with or without the proposed project. There is no reason to assume that the total amount of capacity actually built would differ substantially, with or without this project.

It follows then, that the extent to which retired, nuclear and fossil generation resources will be replaced by new resources can be expected to be ~~the same~~ substantially the same with or without this project. Similarly, the extent to which generation from existing power plants would consume fuel and emit pollutants would be substantially the same

Suggest deleting this

with or without this project. And whatever effect new plants might have insulating ratepayers and taxpayers from risk ~~will~~ would probably occur whether or not the proposed plant is included among the new plants actually built.

Talk about General Plan so it is feasible

The fact that the "No Project" alternative does not meet Calpine/Bechtel's business plans has no bearing on its feasibility. The private objectives of an applicant are not relevant to public objectives that the Energy Commission considers in evaluating applications for new generation facilities. The "No Project" alternative is feasible ~~based on its reference to existing conditions~~ and ~~what~~ could reasonably be expected to occur given current plans, existing infrastructure, and available community services.

Energy Commission staff ^{may believe} has determined that the MEC project ^{may} would cause significant unavoidable impacts in regard to land use, visual resources, and water resources. The "No Project" alternative ~~would~~ could avoid ~~all~~ the environmental impacts that the proposed project would create if the land remains undeveloped. Energy Commission staff has determined that the MEC project would cause significant unavoidable impacts in regard to land use and visual resources, and possibly in regard to biological resources. Also, the applicant has not demonstrated that the proposed project would avoid significant water supply impacts. ^{Since} However, the site is located in the North Coyote Campus Industrial Area. The City of San Jose has indicated that there is interest in developing the proposed site as a campus industrial type facility if the MEC is not approved. Therefore, it can reasonably be expected that in the foreseeable future a campus industrial facility will be located on that site if MEC is not built. (FILL IN WITH MORE ANALYSIS)

~~Foregone Benefits - A1~~
If a different new energy generation facility would be built in the absence of MEC, it is not possible to identify the particular project. Each of the new generation facilities that will be built in California will differ in the particular environmental impacts that it has the potential to cause, primarily because of site specific conditions. Therefore it is not possible to determine with certainty that a "substitute" project would cause less environmental impact than the MEC. However, the Energy Commission has found that recent projects that it has certified would not cause significant unmitigable environmental impacts. Therefore, it appears likely that a "substitute" project could avoid the significant environmental impacts of the MEC. Thus, even assuming that a different new energy facility would be built in the absence of the MEC, the "No Project" alternative would likely be environmentally superior to the proposed project.

However, the plant will also provide local electric system benefits for the greater

San Miller's P?

Memo from Paul Richins commenting on alternatives conclusions

From: Paul Richins <prichins@jps.net>
To: <rrcratliff@aol.com>, <btherkel@energy.state.ca.us...
Date: 10/8/00 12:47PM
Subject: Comments on Alternatives Conclusions

I have serious questions about misleading language in the following paragraph appearing in the Conclusions. My comments are in ().

"Use of alternative site Alt-3 or Alt-4 is expected to avoid all (delete all and replace with land use and visual resource impacts) of the significant unmitigated environmental impacts of the proposed project and is not expected to cause any significant environmental impacts (we should not say "not expected to cause" as the Alts 3 and 4 may have issues associated with EJ, land use, ie, height restrictions and other matters as staff has completed a general assessment and many have stated in the alternatives discussion that more analysis would be need to make such a definitive statement. Furthermore, based on past siting cases I would expect to encounter impacts. I would expect issues and impacts to be encountered based on all four of the cases I have been PM in the last two years. Even Delta Energy Center, sited next to DOW Chemical had impacts of visual resources and major public concerns on AQ and PH, so yes I would expect that staff and the public would identify issues that may be significant. This is also true for Alts 1 and 2 and Alts 5 and 6). Use of alternative site Alt-1or Alt-2 is expected to avoid most of the unmitigated significant environmental impacts of the proposed project and is not expected to cause any significant (add land use or visual resource) environmental impacts that the proposed project would not cause (the wording of this sentence is misleading in that the project only has two impacts, land use and visual. The way the sentence is worded implies greater benefits than actually exist. The structure of the sentence is not consistent with the structure of the sentence associated with Alts 3 and 4. Also, Alts 1 and 2 have potential visual impacts, and is not properly zoned and would require city change in the General Plan, and are on ag land, etc.) Use of alternative site Alt-5 or Alt-6 is expected to avoid all (replace all with land use and visual impacts) of the significant unmitigated environmental impacts of the proposed project. Use of site Alt-5 or Alt-6 may cause significant impacts to biological and water resources."

that's not the point we don't expect sig. unmitigable impacts

which are all!
we do make that qualification
it isn't definitive

but ~~not~~ expect can mitigate to less than sig

~ not really NO

So does MEC! - and impacts at 1 & 2 aren't expected to be significant

Paul--

Gary's 10/9/00 responses to Paul's 10/8/00 comments on Alt's conclusions