

SENATE COMMITTEE ON ENERGY AND PUBLIC UTILITIES

SB 928 - ROGERS

Hearing date: 5-5-87

Public Resources Code

Appropriations: Yes

SENATE BILL 928:

would modify the definition of "thermal powerplant" to clarify that wind, hydroelectric and solar photovoltaic electrical generating facilities are not thermal powerplants.

BACKGROUND

Under the Warren-Alquist Act, the California Energy Commission (CEC) is responsible for siting thermal powerplants of a size equal to or greater than 50 megawatts (MW). Electrical generating facilities which are not thermally powered are exempt from the CEC's siting authority.

Thermal electric power generally refers to electric energy produced by a turbine and generator using thermal fuel. Thermal generation fuels include gas, oil, nuclear, coal, geothermal steam, and industrial or residential waste products.

Currently, the CEC does not consider wind, hydroelectric or solar photovoltaic electric generating facilities to fall within the definition of "thermal powerplant."

Last year during interim, the Committee considered SB 2290 (Alquist) which would have expanded CEC jurisdiction to include the siting of thermal powerplants of a size equal to or greater than 20 MW.

SB 494 (Rosenthal), introduced this year, would modify the definition of thermal powerplant to include "mobile" generating facilities.

DESCRIPTION

SB 928 would add the following provision to the definition of "thermal powerplant":

"Thermal powerplant" does not include any wind, hydroelectric, or solar photovoltaic (sic) electrical generating facility."

COMMENTS

1. SB 928 was introduced by the author to clarify existing law and to give assurances to businesses engaged in renewable energy development, such as wind, hydro and solar energy developers, that they will not be subject to regulatory burdens associated with CEC siting jurisdiction.

Honorable Don Rogers  
 Member of the Senate  
 State Capitol, Room 2068  
 Sacramento, CA 95814

*RF*

DEPARTMENT	AUTHOR	BILL NUMBER
Finance	Rogers	SB 928
SPONSORED BY		RELATED BILLS AMENDMENT DATE
		Original

**BILL SUMMARY**

This bill would revise the definition of thermal power plant in existing law to clarify that wind, hydroelectric, and solar photovoltaic electrical generating facilities are not thermal power plants.

**SUMMARY OF COMMENTS**

This bill would clarify existing law by exempting electrical generating facilities which are not thermally powered from the CEC's siting authority. CEC staff indicate that this bill would have no fiscal or programmatic impact on the Commission's existing programs.

**FISCAL SUMMARY--STATE LEVEL**

Code/Department Agency or Revenue Type	SO LA CO RV	(Fiscal Impact by Fiscal Year)			Code Fund
		(Dollars in Thousands)			
		FC 1986-87	FC 1987-88	FC 1988-89	
3360/CEC	SO	NO FISCAL IMPACT			

Impact on State Appropriations Limit--No.

**ANALYSIS**

**A. Specific Findings**

Under existing law, the CEC is responsible for siting thermal power plants that are 50 megawatts or greater. Thermal generation fuels include gas, oil, nuclear, coal, geothermal steam, and industrial or residential waste products. Currently, electrical generating facilities which are not thermally powered are exempt from the CEC's siting authority.

This bill would revise the definition of thermal power plant to specifically exclude any wind, hydroelectric, or solar photovoltaic electrical generating facility. Since the CEC does not include these types of facilities within the definition of thermal power plant for siting purposes, the author's intent is to clarify existing law and assure renewable energy developers (wind, hydro, and solar) that they will not be subject to the CEC siting jurisdiction.

**B. Fiscal Analysis**

CEC staff indicate that this bill would have no fiscal or programmatic impact on the Commission's existing programs.

<u>POSITION:</u>	<u>Department Director</u>	<u>Date</u>
Neutral		
<u>Principal Analyst</u> (552)	<u>Date</u> 5/8	<u>Program Budget Manager</u> <u>Date</u> 5/8
		<u>Governor's Office</u> Position noted Position approved Position disapproved by: _____ date: _____

HW: 0075g/2

*Thomas J. Pardo*

SENATE THIRD READING

SB 928 (Rogers) - As Amended: August 1, 1988

SENATE VOTE: 35-0

ASSEMBLY ACTIONS:

COMMITTEE NAT. RES. VOTE 11-0 COMMITTEE W. & M. VOTE 23-0

Ayes:

Ayes:

Nays:

Nays:

DIGEST

Urgency statute. 2/3 vote required.

Current law, under the Warren-Alquist Act:

- 1) Makes the California Energy Commission (CEC) responsible for siting thermal powerplants of a size equal or greater than 50 megawatts (MW).
- 2) Exempts from CEC's regular 30-month siting process powerplants involving modifications to an existing facility, plus cogeneration, geothermal, research and demonstration projects, or thermal plants with a generating capacity of up to 100 megawatts. Such projects must be approved within 12 months from the filing of an application.
- 3) Does not generally require CEC approval for electric generating facilities that are not thermally powered, including wind, hydroelectric or solar photovoltaic facilities.

This bill:

- 1) Exempts "solar thermal powerplants" from CEC's regular siting process and requires such projects to be approved within 12 months from the filing of an application. This exemption applies regardless of the singular or "aggregated" electric generating capacity of the project.
- 2) Defines "solar thermal powerplant" to mean a powerplant in which 75% or more of the total energy output is from solar energy, with the use of backup fuels (such as oil, natural gas and coal) not exceeding 25% of the total energy input of the facility during any calendar year period.

FISCAL EFFECT

According to the Legislative Analyst, the bill could result in unknown, but potentially significant savings to the Energy Resources Programs Account from reduced solar thermal powerplant siting requirements.

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COMMENTS

- 1) According to the bill's sponsor, Luz International, Inc., its purpose bill is to save CEC and developers of solar powerplants time and money without losing any environmental or regulatory safeguards in the siting process. The bill does this by preventing CEC from considering the "aggregated" generating capacity of several adjacent solar thermal powerplants proposed by a single developer which might exceed the 100 MW threshold for siting under the commission's abbreviated 12-month application process.
- 2) Luz International, Inc., is currently in the process of developing multiple solar thermal electric generating projects east of Los Angeles in the desert areas of San Bernardino County. One of these projects consist of five 30 MW units of which three are already constructed and operating, one is under construction and one is in the planning stage. CEC reviewed the project for licensing because the five colocated units exceed 50 MW in net generating capacity. Units III through VII were certified by CEC on May 25, 1988.
- 3) Unit VIII of Luz SEGS will be an 80-megawatt power plant constructed near Harper Dry Lake in San Bernardino County. According to the commission, SEGS VIII is the first of five proposed SEGS units which will be located in the Harper Dry Lake area. If constructed, CEC indicates that SEGS Unit VIII will be the single largest solar powerplant in the world and comprise approximately 400 acres. When finished, the Luz SEGS complex at Harper Dry Lake will have an integrated or "aggregated" generating capacity exceeding 300 MW and occupy about 2,000 acres, or more than three square miles.
- 4) According to CEC, the technology used in the Luz SEGS projects involves parabolic reflectors that focus the sun's rays on evacuated tubes carrying a heat transfer fluid (HTF). The heat exchange unit is used to generate steam, which is then superheated in a supplementary gas-fired boiler. The superheated steam produces electric energy in a steam-turbine generator. HTF is considered toxic and past spills of this material by Luz SEGS have required clean-up measures supervised by the Department of Health Services.

CEC also indicates that the Luz SEGS solar energy powerplant projects involve major issues affecting air quality, biological resources, water supply, energy demand conformance, electrical transmission systems planning, hazardous waste and cumulative environmental impacts. Luz SEGS Units III through VII have required relocation of desert tortoises.

Article 5. Small Power Plant Exemptions

3. Amend Section 1935, subdivision (b) to read:

1935. Definitions.

Delete subdivision (b) and the accompanying comment.

NOTE: Authority cited: Sections 25213, 25218(e), 25539, and 25541.5, Public Resources Code. Reference: Section 65943, Government Code; Sections 21065, 25110, 25119, 25120, 25123, 25500, 25502, 25517, 25519, 25540, 25541, 25540.1, 25540.2, and 25541.5, Public Resources Code.

Article 6. Powerplant and Transmission Line  
Jurisdictional Investigations

A. Scope and Definitions

4. Add a new Section 2000 to read:

2000. Purpose.

The purpose of this article is to clarify the commission's jurisdictional threshold regarding thermal powerplants and to establish a process for obtaining timely commission determinations of siting jurisdiction regarding thermal powerplants and electric transmission lines. In so doing, the commission intends to reduce the amount of uncertainty and administrative adjudication involving jurisdictional determinations.

NOTE: Authority cited: Sections 25213, 25218(e), 25539, and 25541.5, Public Resources Code. Reference: Section 11180, Government Code; Sections 21000 et seq., 25001, 25002, 25005, 25007, 25110, 25119, 25120, 25123, 25218.5, 25500, 25500.5, 25502, 25517, 25519, 25523(f), 25524, 25540, 25540.1, 25540.2, and 25541.5, Public Resources Code.

5. Add a new Section 2001 to read:

2001. Definitions.

In addition to the definitions found in Chapter 2 (beginning with Section 25100), Division 15, Public Resources Code and the definitions found in Section 1702 of this subchapter, the definitions contained in this article shall apply to all commission determinations of megawatt capacity thresholds, including the 50 megawatt jurisdictional threshold, the 100 megawatt threshold for a small powerplant exemption, and the 300 megawatt threshold for a cogeneration exemption from the notice of intention requirement.

6. Add a new Section 2002 to read:

2002. Multiple-Unit and Phased Projects

(a) The Commission's jurisdiction over thermal powerplants includes multiple-unit and phased electrical generating facilities which have an aggregate generating capacity of 50 megawatts or more. Except as provided in subdivision (e) below, the generating capacity of multiple-unit or phased facilities shall be aggregated if:

(1) the units are owned or controlled by the same person(s);  
and

(2) the units are located at the same site, as defined in subdivisions (b) through (d) below.

(b) For purposes of subdivision (a)(2), the Commission shall find that units are located at the same site if the units are proposed to be built within one mile of each other, as measured from generator to generator.

(c) For purposes of subdivision (a)(2), the Commission shall find that all geothermal powerplants (and other thermal powerplants which are only technologically or economically feasible to site at or near their primary energy source as provided in Public Resources Code section 25540.6, subdivision

(c) that are proposed to be built more than one mile from each other are not located at the same site.

(d) For purposes of subdivision (a)(2), the Commission may find that the units of powerplants which are not included under subdivision (c) above and which are proposed to be built between one and two miles apart, as measured from generator to generator, are located at the same site. However, there shall be a rebuttable presumption that such units are not located at the same site. The petitioner in a jurisdictional investigation shall have the burden of proving by a preponderance of the evidence that the units are located at the same site based on consideration of the following:

(1) that the units are being planned simultaneously or within two years of each other, as measured from the time that the critical path permits are obtained;

(2) that the units have a common purpose;

(3) that the units were conceived as part of an integrated plan of development;

(4) that there is coordinated or integrated operation and maintenance of the units;

(5) that the units share common equipment; or

(6) that the units use a common energy resource.

(e) In any hearing involving the application of this section, the person alleging that separate units should be aggregated to determine generating capacity shall have the burden of proving by a preponderance of the evidence that both of the required findings in subdivision (a) can be made in the affirmative. Notwithstanding evidence that both findings have been met, the Commission shall find that good cause exists for deeming the facilities separate if the proponent of the good cause finding proves by a preponderance of the evidence one or more of the following:

(1) that it would not be feasible to build the facilities together, taking into account economic, environmental, social, and technological factors;

(2) that, based upon the information known to the developer at the time separate units are proposed, the units could not reasonably be proposed for review at the same time pursuant to one notice, application, or small powerplant exemption proceeding; or

(3) that other compelling reasons for building separate facilities exist.

NOTE: Authority cited: Sections 25213, 25218(e), 25539, and 25541.5, Public Resources Code. Reference: Sections 21065, 25110, 25119, 25120, 25123, 25500, 25502, 25504.5, 25516.5, 25517, 25519, 25524.5, 25540, 25541, 25540.1, 25540.2, 25540.3, 25540.4, and 25541.5, Public Resources Code.

7. Add a new Section 2003 to read:

2003. Generating Capacity.

(a) The "generating capacity" of an electric generating facility means the net rating, in kilowatts ("kW"), of the plant's turbine(s) after subtracting the average auxiliary load from the gross rating of the plant's turbine(s).

(b) The "gross rating" of the plant's turbine(s) shall be determined according to this subdivision. If there is more than one turbine, the gross rating of each turbine shall be added together to determine the total gross rating of the plant's turbines.

(1) The gross rating of a steam turbine shall be the maximum continuous rating, in kW, of the turbine at the developer's specified design inlet and exhaust steam (or other working fluid) conditions, i.e., temperature, pressure, enthalpy, and flow rate, and at the specified extraction and induction points, if any, as evidenced by the overall plant heat and mass balance calculations. All extractions will be assumed to be at minimum flow rates to the external process and all inductions will be assumed to be at the maximum flow rates from the external process.

(2) The gross rating of a combustion turbine shall be the continuous base rating, in kW, of the turbine as evidenced by the overall plant heat and mass balance calculations at site conditions, with the proposed fuel type, and the maximum water or steam injection flow rate, if any. The annual average dry bulb temperature and relative humidity of the inlet air shall be the 10-year (or greater) annual average dry bulb temperature and relative humidity at the plant site derived from the nearest meteorological data point, using published data from the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), the National Oceanographic and Atmospheric Administration (NOAA), the U.S. Air Force, or commercial airport weather stations. The barometric pressure at the site shall be assumed to be one standard atmosphere, corrected for actual site elevation.

(3) When more than one operating mode is possible, the gross rating shall be based on the mode that produces the maximum turbine capacity.

(4) The gross ratings specified in the overall plant heat and mass balance calculations shall be subject to verification by commission review of the steam or combustion turbine manufacturer's performance guarantee, specifications and procurement contract. Any design modifications that have no reasonably apparent function other than to limit a turbine's gross rating shall not be allowed to reduce the turbine's ratings.

(c) The "average auxiliary load" means the average rating of all on-site electrical power requirements necessary for and supplied directly by the power plant. For geothermal projects, the average auxiliary load includes the electrical operating requirements for the associated geothermal field which are necessary for and supplied directly by the power plant.

NOTE: Authority cited: Sections 25213, 25218(e), 25539, and 25541.5, Public Resources Code. Reference: Section 65943.

George R. Steffes

1121 L STREET

SUITE

#119

LEGISLATIVE  
ADVOCATES

SACRAMENTO  
CALIFORNIA 95814

TELEPHONE  
916 444-5154

May 25, 1988

**TO: KIP LIPPER, CONSULTANT, ASSEMBLY NATURAL RESOURCES  
COMMITTEE**

**FROM: SARAH MICHAEL, REPRESENTING LUZ INTERNATIONAL, INC.**

**SUBJECT: BACKGROUND ON SB 928 WITH PROPOSED AMENDMENTS**

Attached are proposed amendments to SB 928. The amendments grant solar powerplants similar Energy Commission licensing treatment currently provided for cogeneration facilities, geothermal projects, research, demonstration, or commercial demonstration projects, including those which use renewable energy resources, and powerplants less than 100 megawatts.

This amendment would require the CEC to site solar facilities within 12 months after an application is filed. Without the bill, the CEC could take up to 3 years to review and approve solar facilities which when accumulated are over 100 megawatts.

Under the original Warren Alquist Act, a 3 year approval schedule was considered necessary during an era when large nuclear, oil and coal facilities were being planned by California utilities. As the trend changed and smaller facilities were being constructed, it was agreed that less time was needed to approve these applications and various technologies (mentioned above) were given a 12 month approval process.

The 12 month approval process still requires the project developer to go through the environmental review process. The major difference is that the project applicant is not required by law to select 3 alternative sites for the project and is not required to look at alternative energy resources as a means to generate the electricity. I should add, however, that the CEC can still require the applicant to look at alternative sites if deemed necessary in the environmental review process.

The effect of this legislation would be to save the CEC and developers of solar power plants time and money without losing any environmental or regulatory safeguards in the siting process.

STATEMENT ON SB 928 BEFORE THE SENATE COMMITTEE ON ENERGY AND  
PUBLIC UTILITIES - May 5, 1987

The purpose of SB 928 is to clarify existing law relating to the California Energy Commission's jurisdiction over renewable energy resources. Currently, the Commission has authority to regulate development of thermal powerplants over 50 MW but not wind, solar or hydroelectric plants which are not thermal.

There has been concern that the Commission wants to expand its jurisdiction. Legislation introduced last year would have allowed the Commission to have authority over smaller power plants. Although this legislation was defeated, I feel that a clarification of existing law will help to send a signal that more regulation over renewable energy development is not needed.

The Energy Commission has informed me that its regulations currently state that these renewable energy resources are not defined as "thermal" powerplants; therefore, SB 928 simply codifies their current regulations. You may ask, then, why is SB 928 needed. It is needed because, as many of you know, regulations can always be changed. This is evident in the Commission's current regulatory proceedings regarding the definition of a "50 Megawatt" powerplant and whether development of several smaller sized plants which accumulatively total more than 50 Megawatts fall under the CEC's jurisdiction. Regulations are subject to interpretation. I want to ensure that the law is clear with regards to these renewable resources.

Government regulations can impose severe hardships on small companies. SB 928 will give assurances to businesses engaged in renewable energy development that the Legislature does not want to impose additional regulatory burdens on them. My Senate District contains numerous sources of renewable energy - wind farms in the Tehachapi, hydroelectric resources in the mountains and solar is being developed in the Carizza Plains and Mojave Desert. SB 928 stems from my support for the development of these industries.

Seawest Industries, a wind company in my district, is in support of SB 928 and there is no known opposition. I urge your eye vote and request that it be placed upon the consent calendar.

PROJECT ABSTRACT

LUZ SOLAR ELECTRIC GENERATING SYSTEMS (SEGS)  
AT HARPER DRY LAKE UNIT VIII (80 MW)

DOCKET NO. 88-AFC-1

MANAGER: Gary C. Heath, 324-3221

APPLICANT: Luz Engineering Corporation  
924 Westwood Boulevard  
Los Angeles, California 90024  
William Amend, Ph.D. (213) 208-7444

UTILITY: Southern California Edison (SCE)

Project Description

1. Location

Luz Solar Electric Generating Systems (SEGS) Unit VIII will be an 80 megawatt (MW) power plant constructed near Harper Dry Lake in San Bernardino County, about 135 miles northeast of Los Angeles and approximately 7 miles north of the intersection of State Route 58 and Harper Lake Road. SEGS VIII is the first of five proposed SEGS units which will be located in the Harper Dry Lake area.

2. Technology

The project utilizes parabolic reflectors that focus the sun's rays on evacuated tubes carrying a heat transfer fluid. The heat exchange unit is used to generate steam, which is then super-heated in a supplementary gas fired boiler. The super-heated steam produces electric energy in a steam-turbine generator.

Construction Start Date/On-Line Date

Construction for SEGS VIII is scheduled to begin in October 1988, with completion planned for December 1989.

Cost

SEGS VIII -- \$210 million (approximate value)

Luz SEGS VIII - Harper Dry Lake  
June, 1988

### Issues

Air quality, biological resources, water supply, demand conformance, electrical transmission systems planning, hazardous waste, and cumulative environmental impacts could be major issues.

### Parties/Concerns

The Desert Tortoise Council and the California Department of Fish and Game are concerned about impacts of the project to desert tortoise and the Mohave ground squirrel. The San Bernardino County Chapter of the Audubon Society is concerned about the project's impact on avian resources. The County of San Bernardino Environmental Health Services is concerned about hazardous material handling at the proposed site.

### Interesting Facts

If constructed, SEGS Unit VIII will be the single largest solar power plant in the world. In 1989 the Luz Engineering Corporation could be generating approximately 275 MW from 8 facilities in San Bernardino County.

### Project Status

Luz filed its AFC on March 11, 1988. Staff found the AFC to be data deficient for purposes of beginning the AFC process. The Commission adopted staff's findings at its April 13, 1988 business meeting. On May 4, 1988 Luz filed its first set of data deficiency responses. Luz anticipates completing and filing the data deficiency responses by mid-June 1988.

ASSEMBLY NATURAL RESOURCES COMMITTEE

BILL NO: SB 928

BYRON D. SHER, CHAIRMAN

FISCAL: YES

STATE CAPITOL, ROOM 2136  
(916) 445-9367

URGENCY: NO

HEARING  
DATE: 6/20/88

BILL NO: SB 928 (As Amended June 6, 1988)

AUTHOR: ROGERS

PRIOR ACTION:

Senate Energy & Public Utilities	(7-0)	5/6/88
Senate Appropriations	Rule 28.8	5/18/88
Senate Floor	(35-0)	5/28/88 Consent

- SUBJECT:
- 1) SHOULD THE ENERGY COMMISSION BE REQUIRED TO APPROVE PROPOSED SOLAR ENERGY POWERPLANTS WITHIN 12 MONTHS AFTER THE FILING OF AN APPLICATION?
  - 2) SHOULD THE DEFINITION OF "THERMAL POWERPLANT" UNDER THE WARREN-ALQUIST ACT BE CLARIFIED TO EXCLUDE WIND, HYDROELECTRIC AND SOLAR PHOTOVOLTAIC GENERATING FACILITIES?

DIGEST

Current law, under the Warren-Alquist Act:

- 1) Makes the California Energy Commission (CEC) responsible for siting thermal powerplants of a size equal or greater than 50 megawatts (MW).
- 2) Exempts powerplants involving modifications to an existing facility, plus cogeneration, geothermal, research and demonstration projects, or thermal plants with a generating capacity of up to 100 megawatts, from the CEC's regular 30-month siting process. Such projects must be approved within 12 months from the filing of an application.
- 3) Does not generally require CEC approval for electric generating facilities that are not thermally powered, including wind, hydroelectric or solar photovoltaic facilities.

This bill:

- 1) Exempts "solar energy powerplants" from the CEC's regular siting process and requires such projects to be approved within 12 months from the filing of an application. This exemption would apply regardless of the singular or "aggregated" electric generating capacity of the project.

- continued -

SB 928

- 2) Revises the definition of "thermal powerplant" to specifically exclude wind, hydroelectric or solar photovoltaic electrical generating facilities.

#### COMMENTS

- 1) Purpose Of The Bill. According to information from the sponsors of the bill, Luz International, Inc., the purpose of the bill is to save the Energy Commission and developers of solar powerplants time and money without losing any environmental or regulatory safeguards in the siting process. The bill does this by preventing the CEC from considering the "aggregated" generating capacity of several adjacent solar thermal powerplants proposed by a single developer which might exceed the 100 MW threshold for siting under the commission's abbreviated 12-month application process.
- 2) Luz Solar Energy Generating Systems (SEGS) Projects. Luz International, Inc., is currently in the process of developing multiple solar thermal electric generating projects east of Los Angeles in the desert areas of San Bernardino County. One of these projects consist of five 30 MW units of which three are already constructed and operating, one is under construction and one is in the planning stage. The CEC reviewed the project for licensing because the five co-located units exceed 50 MW in net generating capacity. Units III through VII were certified by the CEC on May 25, 1988.
- 3) Luz Proposes The World's Largest Solar Powerplant. Unit VIII of Luz SEGS will be an 80 megawatt power plant constructed near Harper Dry Lake in San Bernardino County. According to the Energy Commission, SEGS VIII is the first of five proposed SEGS units which will be located in the Harper Dry Lake area. If constructed, the CEC indicates that SEGS Unit VIII will be the single largest solar powerplant in the world and comprise approximately 400 acres. When finished, the Luz SEGS complex at Harper Dry Lake will have an integrated or "aggregated" generating capacity exceeding 300 MW and occupy about 2,000 acres, or more than three square miles.
- 4) Environmental Impacts Of The Luz SEGS Solar Projects. According to the CEC, the technology used in the Luz SEGS projects involves parabolic reflectors that focus the sun's rays on evacuated tubes carrying a heat transfer fluid (HTF). The heat exchange unit is used to generate steam, which is then superheated in a supplementary gas-fired boiler. The super-heated steam produces electric energy in a steam-turbine generator. HTF is considered toxic and past spills of this material by Luz SEGS have required clean-up measures supervised by the Department of Health Services.

The CEC also indicates that the Luz SEGS solar energy powerplant projects involve major issues affecting air quality, biological resources, water

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supply, energy demand conformance, electrical transmission systems planning, hazardous waste and cumulative environmental impacts. Luz SEGS Units III through VII have required relocation of desert tortoises.

- 5) CEC Engaged In Current Rulemaking Defining Siting Jurisdiction. According to CEC staff, the Energy Commission will soon be adopting new rules addressing both how the 50 megawatt threshold in current law is defined and how "aggregated" (e.g., multiple unit) projects will be reviewed for purposes of determining CEC jurisdiction. Depending on the outcome of this pending rulemaking process, the exemption for solar powerplants authorized by this bill may be premature or rendered unnecessary.
- 6) No Limit On The Size Of Solar Powerplants Affected By The Bill's Provisions. Under current law, thermal powerplants employing cogeneration technology and less than 300 MW must be approved by the CEC under the abbreviated 12-month siting process. Such facilities may exceed 300 MW only if the commission, by regulation, specifically authorizes a greater capacity. However, this bill contains no similar limit on the individual or "aggregated" generating capacity of solar energy powerplants that would also have to be approved under the 12-month siting process.

SOURCE: Luz International, Inc.

SUPPORT: None on file

OPPOSITION: None on file

# 2 companies beneficiaries of Rogers bills

10-6-88

By CRESCENZO VELLUCCI  
and MARTIN L. GORDA  
Valley Press Capitol Bureau

SACRAMENTO - State Sen. Don Rogers, R-Bakersfield, introduced at least two separate bills in the 1987-88 session apparently intended for the special benefit of two companies - including one which also contributed money to his campaign fund, an investigation by the Valley Press Capitol Bureau has revealed.

In connection with one bill, Rogers and key members of the Legislature, including Senate Pro Tem David Roberti, received contributions totaling \$11,400 from Luz Engineering and Luz International Ltd, according to documents filed with the secretary of state's office here.

Rogers, whose district includes Kern County and parts of Little Rock and Pear Blossom, however, denies accepting the money from Luz with any understanding that he would do favors for the company.

Luz gave the money to lawmakers about the time SB 928, authored by Rogers, was being considered in the Legislature. The bill was apparently intended to help the Los Angeles solar development company bypass costly regulations and cut through government red tape.

Luz, partially financed by overseas investors, is building the world's largest solar power plant in the desert near San Bernardino. The total cost of the project is estimated at \$100 million.

The Luz bill was introduced in March 1987, and signed by the governor Sept. 19, taking two years to traverse the legislative process. Along the way, it received just one "no" vote.

Under the new law, state regulatory agencies must act on environmental impact reports submitted by Luz within 12 months. Previously, EIR approval could take up to 30 months.

Such a variance would benefit Luz greatly. Besides its multiple solar thermal electric generating project in San Bernardino County, the firm plans an even larger project - the world's largest, Luz says.

When finished, the Luz project will encompass 2,000 acres, including nearly three square miles of photovoltaic cells, which convert the sun's energy into electric power.

The accelerated EIR process is now law despite concerns by the California Energy Commission that Luz uses technology that affects air quality, biological resources, water supply, hazardous waste and cumulative environmental impacts. One of the Luz projects, it notes, required the relocation of desert tortoises.

## Rogers' timing on bill way off

By MARTIN L. GORDA  
and CRESCENZO VELLUCCI  
Valley Press Capitol Bureau

SACRAMENTO - Last Aug. 22 - just two days before FBI agents searched offices in the Capitol for evidence of lawmakers who received contributions for pushing special interest bills through the Legislature - Antelope Valley Sen. Don Rogers was trying to convince an Assembly policy committee to approve a similar bill.

There has been no suggestion of wrongdoing on Rogers' part. He says there is nothing unusual about his carrying bills to benefit single companies. But the two bills he was carrying for the benefit of single companies are of the type which have become controversial in the Capitol.

The concern here is over special interest legislation and the role money, lots of it, plays in Capitol politics.

In fact, it was the continued "influence-peddling" involving outside firms and interests that led to the now-famous "shrimpscam" or "capescam" FBI investigation in late August, just days before the Legislature went home until December.

Special interest groups annually contribute millions of dollars to re-election campaigns to help favorite lawmakers.

While lobbyists unabashedly admit they contribute the money to influence votes, legislators absolutely swear the big money doesn't buy votes.

But the FBI, not convinced of that, set-up an elaborate, three-year probe to, in effect, catch legislators in the act of wheeling and dealing.

When elected officials say they don't let contributions influence their voting, their constituents and the law have to believe them. In the case of the FBI investigation elec-

## Rogers

From A1  
contributed monies to five other legislators — all key players, in addition to Rogers — in getting the measure passed.

Rogers denies taking money from Luz in exchange for introducing the bill, adding that at “no time did they even hint to me that if I carried the bill they would contribute to me.”

Further, Rogers said that he “never” votes or carries bills “based on whether or not some company contributes to my reelection fund.”

He said that if there had been “suggestions” of contributions for carrying the bill, he would have turned the firm down.

Although the Legislature regularly approves special interest legislation to benefit an entire professional group — such as doctors, bankers or state employees, for example — it is unusual to approve legislation that benefits a single company.

The recent Capsam influence-peddling scandal has riveted attention on special-interest bills offered by state lawmakers.

The two-year federal corruption probe is seeking to ensnare lawmakers who might trade their votes on special-interest legislation for campaign contributions or other payments.

Luz — going under the names Luz Corp., Luz Engineering Corp., Luz International Ltd. — definitely made the best of its contributions from late 1986 to 1988.

In late 1986, shortly before Rogers officially introduced the bill, the firm donated \$1,000 each to Assembly Speaker Willie Brown, and Senate Pro Tem David Roberti. As house leaders, they decide which committee will get legislation, a decision that often helps kill or approve bills.

Luz then contributed \$2,400 to the chairman of the key Senate Energy and Public Utilities

disposal standards.

Although the Senate approved SB 1912 Aug. 5, the Assembly toxics panel refused to move it Aug. 22.

The bill would have benefited Liquid Chemical Corp., which faced \$250,000 in fines for mishandling zinc, which it uses in a fertilizer. LCC maintained that the product it produces is not hazardous waste and if forced to pay the fine, it may go out of business.

The Assembly Committee on Environmental Safety and Toxic Materials refused that appeal, with some members grumbling that the bill would favor just one company.

Rogers didn't try to hide that, however, and after the rebuke was overheard apologizing to a representative of LCC that he was sorry he couldn't help.

Liquid Chemical Corp. did not contribute directly to Rogers' campaign fund, according to the records available as of September.

However, according to campaign disclosure documents on file here, Rogers received more than \$5,000 in campaign contributions between 1986 and 1988 from the Fertilizer Association Political Action Committee.

According to the state political reform act, political contributions must be made in the name of the original donor, and must be disclosed to the office-seeker who receives the contribution.

“No contribution shall be made, directly or indirectly, by any person in a name other than the name by which (he or she) is identified for legal purposes,” the law says.

However, there are no such disclosure requirements for money funneled to candidates by PACs.

Rogers explains that he doesn't consider legislation such as those he authored as special



SEN. DON ROGERS

Committee, Sen. Herschel Rosenthal, D-Los Angeles.

Another \$1,500 was given to Sen. John Garamendi, D-Walnut Grove, who happens to be a key vote on the Senate Energy and Public Utilities Committee.

The panel approved the measure 7-0 on May 5, 1987, and the Senate 35-0 on May 28, 1987.

Luz also gave \$500 Aug. 18, 1987, to Assemblyman Bill Leonard, R-Redlands, who coincidentally sat on both lower house committees that had to OK the Luz bill. He later voted to approve the bill in the Assembly Ways and Means Committee and Assembly Natural Resources Committee.

Also, on Nov. 3, 1986, Luz gave Gov. George Deukmejian's campaign \$2,500. And, 10 months later, the governor signed a bill which greatly enhances Luz's business.

A second Rogers bill, SB 1912, was intended to benefit chemical fertilizer producers, specifically Liquid Chemical Corp. of Hanford.

In the bill, which died in committee during the final weeks of the 1988 session, Rogers proposed a change in state law to allow Liquid Chemical special exemption from hazardous waste

interest.

"These are bills that address special problems of people, or companies, in my district. I would do the same for any group or business," he says.

"It was proper and natural of me to carry those bills . . . I believe in helping businesses be successful with their projects and continue to provide jobs for people in my district, without any harm to the environment," Rogers added.

He said that in the case of Luz, the law now allows them "to be treated the same way as other power plants."

LCC, he said, still faces an unsure future.

"Zinc is a very necessary element for plants, and for humans . . . my bill says that zinc-bearing materials are not hazardous when they contain other non-hazardous materials.

"The law now puts all kinds of unnecessary overregulation on business . . . that has to stop," adds Rogers.

Although that would appear to peg Rogers as a "pro-business" legislator, neither of the special interest bills appeared on the "top 60" business bills itemized by the California Chamber of Commerce.

## Bills

From A1  
taped the "deals" being made will tell the tale. No arrests have been made.

Before the FBI undercover operation came to light last month, special interest bills hardly raised eyebrows in Sacramento. But in recent weeks, the activities of all lawmakers — even those not directly implicated in the FBI sting — have come under close scrutiny.

Whether contributions made by either individual companies or political action groups influence legislators is difficult to prove.

Rogers and other lawmakers claim the contributions do not make any difference in how they vote.

Those in and out of government may suspect otherwise in some situations. But, unless there is an elaborate scheme — such as the FBI's current corruption probe — the suspicions, if true, are nearly impossible to prove.

Until then, voters must depend on the word of lawmakers like Rogers — who is adamant that money does not influence his votes.

"I vote and carry bills strictly on the merits," said Rogers, adding that he would not hesitate to "return contributions" that have conditions put on them.

"That's the key difference between my situation and (the subject of the FBI investigation)," he says.

ROSENTHAL FLOOR STATEMENT ON SB 928 (ROGERS)

ENVIRONMENTAL CONCERN

I RISE TO SEEK CLARIFICATION FROM THE AUTHOR ON SB 928.

WHEN THIS BILL CAME BEFORE THE SENATE ENERGY AND PUBLIC UTILITIES COMMITTEE, IT WAS SIMPLY A TECHNICAL CONSENT ITEM WHICH CLARIFIED THE DEFINITION OF "THERMAL POWERPLANT."

HOWEVER, THE BILL WAS SUBSTANTIALLY AMENDED IN THE ASSEMBLY TO INCLUDE PROVISIONS TO EXPEDITE THE SITING OF SOLAR THERMAL POWERPLANTS.

FROM A PROCEDURAL BASIS, I AM CONCERNED THAT THIS EXPANDED BILL WAS NOT REVIEWED BY MY COMMITTEE. FROM A POLICY PERSPECTIVE, I AM CONCERNED THAT THE BILL DOES NOT INCLUDE AN AMENDMENT RECOMMENDED BY THE ENERGY COMMISSION REQUIRING SOLAR APPLICANTS TO PROVIDE AN ANALYSIS OF ALTERNATIVE SITES.

SOLAR POWERPLANTS ARE MUCH MORE LAND-USE INTENSIVE THAN OTHER PLANTS. A TYPICAL 80 MEGAWATT PLANT REQUIRES APPROXIMATELY 400 ACRES--THIS IS ALMOST 1 SQUARE MILE OF LAND. THESE PLANTS OFTEN HAVE SIGNIFICANT AIR AND WATER QUALITY IMPACTS. AN ANALYSIS OF ALTERNATIVE SITES IS NEEDED TO MAKE CERTAIN THAT THESE ADVERSE ENVIRONMENTAL IMPACTS ARE MITIGATED.

IN THE ASSEMBLY, THE SPONSOR OF THE BILL SUCCESSFULLY OPPOSED THE ENERGY COMMISSION'S PROPOSED AMENDMENT ON ALTERNATIVE SITES. NOW THE ENERGY COMMISSION SUPPORTS THE BILL WITH THE UNDERSTANDING THAT THE SPONSOR WILL COMPLY WITH COMMISSION REGULATIONS REQUIRING ALTERNATIVE SITE ANALYSES.

FOR THE RECORD, DO YOU AND YOUR SPONSOR AGREE THAT THE ENERGY COMMISSION HAS THE REGULATORY AUTHORITY TO REQUIRE SUCH ANALYSES. IF THE ANSWER IS YES, I HAVE NO CONCERN WITH THE BILL. IF THE ANSWER IS NO, THEN I REQUEST THAT YOU ADOPT AN AMENDMENT AS RECOMMENDED BY THE ENERGY COMMISSION.

LABOR CONCERN

I ALSO HAVE ONE MORE CONCERN ABOUT THE BILL.

THIS BILL WILL MAKE IT EASIER FOR THE SOLAR INDUSTRY TO CONSTRUCT PROJECTS IN CALIFORNIA--AND THAT PLEASES ME.

HOWEVER I HAVE RECEIVED COMPLAINTS FROM LABOR GROUPS THAT NEW SOLAR PROJECTS ARE BEING CONSTRUCTED BY OUT-OF-STATE WORKERS--AND THAT DISPLEASES ME.

ONE OF THE PURPOSES OF BUILDING NEW POWER PLANTS IN CALIFORNIA IS TO PROMOTE ECONOMIC DEVELOPMENT AND LOCAL EMPLOYMENT.

I AM SUPPORTING THIS BILL WITH THE UNDERSTANDING THAT THE SPONSOR OF THE BILL IS NEGOTIATING WITH LABOR GROUPS TO ENSURE THAT CALIFORNIA WORKERS BENEFIT FROM THE DEVELOPMENT OF SOLAR POWER.

## CALIFORNIA ENERGY COMMISSION

CHARLES R. IMBRECHT  
Chairman

August 1, 1988

The Honorable John Vasconcellos  
Chairman, Assembly Ways & Means  
State Capitol, Room 6026  
Sacramento, California 95814

*John*

Dear Assemblyman Vasconcellos:

The California Energy Commission (CEC) has taken a SUPPORT position on SB 928 (Rogers) as proposed to be amended by Senator Rogers at the Assembly Natural Resources Committee Hearing on June 27, 1988. This bill will exempt solar power plants (75 percent of total energy input must be from solar sources) from the Notice Of Intention (NOI) and would make them eligible for a 12-month Application For Certification (AFC). SB 928 is scheduled to be heard in the Assembly Ways and Means Committee on Wednesday, August 10, 1988.

SB 928 would add Section 25140 to the Public Resources Code defining a "solar thermal powerplant" as any thermal power plant which utilizes solar energy for 75 percent or more of its energy input. The Energy Commission agrees that California law should incorporate the federal restrictions on solar power plants.

We also agree that subject to a 300 MW size limitation, as proposed in the amendment to Section 25540.6(a), solar power plants should be exempt from the NOI process. However, because of the large amount of land required for solar facilities, the Energy Commission will continue to use Section 1765 of its siting regulations (Title 20, California Code of Regulations) to ensure that alternative sites have been adequately considered.

Again, the CEC SUPPORTS SB 928 (Rogers) and urges the members of the Assembly Ways and Means Committee to do the same.

Sincerely,

CHARLES R. IMBRECHT  
Chairmancc: Senator Don Rogers  
Members, Assembly Ways and Means