

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512  
www.energy.ca.gov



March 29, 2007

<b>DOCKET</b>	
<b>06-AFC-8</b>	
<b>DATE</b>	MAR 29 2007
<b>RECD.</b>	MAR 29 2007

Keith Bergthold, Acting Director  
City of Fresno Planning and Development Department  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

**RE: Bullard Energy Center (06-AFC-8)**

Dear Mr. Bergthold:

On November 6, 2006, Bullard Energy Center, LLC (Applicant), submitted an Application for Certification (AFC) to the California Energy Commission to construct and operate a nominal 200 megawatt (MW) simple-cycle (peaking) power plant, the Bullard Energy Center (BEC), in the City of Fresno. On January 2, 2007, BEC provided a supplement to the AFC to satisfy the Energy Commission's informational requirements. On January 3, 2007, the Energy Commission accepted the AFC with the supplemental information as complete.

The Energy Commission has the exclusive authority to license all new or modified power facilities, 50 MW or greater in the state (Public Resources Code section 25500). The Energy Commission's license takes the place of all other state, regional, or local permits (e.g., conditional use permit), and other entitlements for use, that would otherwise be required. The Energy Commission's facility certification process carefully examines public health and safety, environmental impacts, and engineering aspects of proposed power plants, and all related facilities such as electric transmission lines and natural gas and water pipelines. The Energy Commission's responsibilities are those of a lead agency under the California Environmental Quality Act (CEQA), except the Energy Commission's analysis includes multiple environmental and decision documents rather than an Environmental Impact Report.

As part of the licensing process, the Energy Commission must determine whether a proposed facility complies with all applicable state, regional, and local laws, ordinances, regulations, and standards (LORS) (Public Resources Code section 25523(d)(1)). The Energy Commission must either find that a project conforms with all applicable LORS or make specific findings that a project's approval is justified even where the project is not in conformity with all applicable LORS (Public Resources Code section 25525).

The staff of the Energy Commission has begun the discovery and analysis phases of the project's 12-month licensing process. The Energy Commission staff is an independent party in a licensing case and has the responsibility to perform an

**PROOF OF SERVICE / REVISED 3/16/07 FILED WITH  
ORIGINAL MAILED FROM SACRAMENTO ON 3/29/07**

independent assessment of each energy facility application filed with the Energy Commission. The decision on whether to grant a facility a license and under what set of conditions is ultimately made by the Energy Commission (a five-member body appointed by the Governor). The project's current schedule has the Preliminary Staff Assessment (PSA) on the BEC being published in June 2007.

We are interested in working with you and your staff to understand the City's position related to the land use, traffic/transportation, visual resources, and water resources aspects of the project, as well as any other matters that may be of concern to your agency (Title 20, California Code of Regulations section 1714.5). We would like to incorporate the City's input and address any concerns it may have in our PSA. To facilitate this request, we have asked the Applicant to provide your agency with the additional project information your staff identified in a March 23, 2007 letter to Mary Dyas, Siting Project Manager. Once the PSA is complete, it will be released for public review, allowing your agency the opportunity to comment on the project's LORS conformity and environmental issues.

### ***Land Use***

The Energy Commission received a copy of your January 30, 2007 letter responding to the Applicant's request for a review of the BEC project's consistency with the City of Fresno Zoning Ordinance. The BEC is currently proposed to be constructed on land that is designated M-1 (Light Industrial). In your letter, you stated that the BEC would not be an allowed use in the M-1 zone either by right or by conditional use permit, including under the Section 12-408, Director's Classification. On February 6, 2007, Energy Commission staff and City staff held a conference call to clarify the conformity issues associated with the City's General Plan and zoning designations for the BEC site. We also understand that the Applicant and the City met subsequent to your letter to discuss these issues.

We are interested in understanding the City's current position on the proposed project's consistency with the City of Fresno General Plan and Zoning Ordinance. In particular, we would like to know whether the BEC would be an allowed use in the M-1 zone with a conditional use permit (if the Energy Commission did not have exclusive authority to site the facility), or alternatively, whether the City of Fresno would require a General Plan amendment and rezoning of the proposed site. If the former, we would appreciate receiving a list of conditions (and the appropriate citation to the applicable LORS) the City of Fresno would normally attach to a conditional use permit for a project such as the BEC. These conditions will be considered by Energy Commission staff for inclusion in the conditions of certification we recommend for the project. If the City believes that the BEC would not be an allowed use in the M-1 zone, but the City would consider a General Plan amendment and rezoning (to M-3 [Heavy Industrial]) of the proposed site, we would appreciate receiving information on the amount of time the City would need to process such a request (if one were made by the Applicant).

### ***Alternative Sites***

If the City believes that the M-1 zoning does not allow projects such as the BEC, we would appreciate receiving input from the City on sites within the City of Fresno that would be acceptable to the City for a 200 MW peaking power plant and consistent with the City's General Plan and Zoning Ordinance. This information would be helpful as we prepare an Alternative Sites analysis.

### ***Traffic and Transportation***

The Traffic and Transportation section of the AFC (pages 5.11-1 through 35) presents the Applicant's assessment of the proposed project's consistency with the City of Fresno's traffic and transportation plan, policies and regulations. We would like to know if the City believes that the Applicant's traffic/transportation-related information is complete and accurate and what traffic/transportation-related conditions, if any, would be required.

### ***Visual Resources***

The Visual Resources section of the AFC (pages 5.13-26 through -33) outlines the Applicant's assessment of the proposed project's consistency with the City of Fresno's aesthetic/visual regulations, architectural design review, landscape requirements, and scenic area regulations for the site. We would like to know whether the City considers the Applicant's visual information complete and accurate and what aesthetic/visual conditions, if any, would be required.

### ***Water Resources***

We would like to request the City's comments on the Applicant's proposed plans for water supply, wastewater disposal and stormwater management. The Water Resources section of the AFC (Section 5.5) addresses these topics.

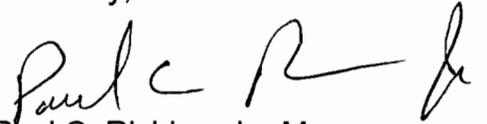
The Applicant has submitted to the Energy Commission "will serve" letters from the City committing to provide municipal water and wastewater disposal (sewer collection) services to the BEC project. The AFC describes the project's plan to use municipal water supplied by the City of Fresno and proposed water-use offset programs on pages 5.5-17 through 5.5-22. The AFC also discusses two potential future water supply alternatives, use of recycled water and use of surface water from the Herndon Canal (pages 5.5-22). The AFC describes the project's plan to use the City's sanitary sewer system for the disposal of process wastewater on pages 5.5-24 to 5.5-29. We would appreciate knowing whether you consider the applicant's water supply and wastewater disposal information complete and accurate. We request that you provide an update, if available, on the status of the will-serve agreements, including water-use offset plans and any other terms or conditions. We would also welcome the City's comments on the current or potential future availability of the recycled and Herndon Canal water supply alternatives.

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The BEC stormwater plan is described in various sections of the AFC, including page 5.5-29, page 3-32 (Facility Description and Location) and Appendix R (Stormwater Calculations), which provides calculations for the design of the on-site detention basin. In addition, the AFC indicates on Table 5.5-15 LORS Related to Water Resources (page 5.5-35) that BEC does not plan to obtain an NPDES permit for industrial activities. We would like to know whether you consider the Applicant's proposed plans for stormwater management in conformance with the City of Fresno's applicable LORS. If the City would normally specify conditions for stormwater plans, please provide a list of the applicable conditions.

We request that the City of Fresno provide a letter within 30 days after receiving the additional information requested of the Applicant by the Energy Commission staff, addressing the land use, traffic/transportation, visual and water resources questions noted above. In your review of the AFC, if you have any other issues or concerns, or need additional time to respond, please let us know. Please contact Eric Knight, Community Resources Unit Supervisor, by phone at (916) 653-1850 or by email at [eknight@energy.state.ca.us](mailto:eknight@energy.state.ca.us) should you have any questions.

Sincerely,



Paul C. Richins, Jr., Manager  
Environmental Office  
Energy Facilities Siting Division

cc: Docket (06-AFC-8)  
Proof of Service List

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE  
STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION  
FOR THE *BULLARD ENERGY  
CENTER (BEC)*

Docket No. 06-AFC-8  
PROOF OF SERVICE  
(Revised 3/16/07)

**INSTRUCTIONS:** All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 06-AFC-8  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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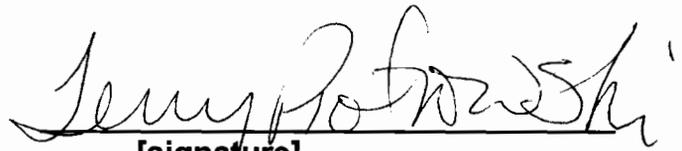
**DECLARATION OF SERVICE**

I, Terry Piotrowski, declare that on March 29, 2007 I deposited copies of the attached Letter to City of Fresno regarding the Bullard Energy Center in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

**OR**

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

  
[signature]