

**CITY OF FRESNO CONDITIONAL
USE PERMIT REQUEST LETTER**



November 3, 2006

Mr. Nick Yovino
Development Director
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3604

Re: Conditional Use Permit Request for the Bullard Energy Center

Dear Mr. Yovino:

The Bullard Energy Center (BEC) is a proposed simple-cycle electrical generating facility located at 5829 North Golden State Boulevard within the City of Fresno. The generating facility will include two (2) General Electric LMS100 natural gas-fired combustion turbine generators (CTGs), each equipped with water injection to the combustors for reducing production of oxides of nitrogen (NO_x), a selective catalytic reduction (SCR) system with 19% aqueous ammonia injection to further reduce NO_x emissions, and an oxidation catalyst to reduce carbon monoxide. The total net generating capacity will be approximately 200 MW.

The BEC as proposed is consistent with the City of Fresno's General Plan, the West Area Community Plan, and zoning designation for the site, with the approval of a Director Classification Conditional Use Permit (CUP). The project site is designated Industrial by the Urban Form Element of the 2025 City of Fresno General Plan, and Light Industrial by Exhibit 3, the City of Fresno Current Planned Land Use Map. The existing zoning designation is M-1, Light Manufacturing District.

According to the City of Fresno Zoning Ordinance, a non-nuclear electrical generation facility is allowed in the M-3 (Heavy Industrial) District with a Director Classification CUP. The project parcel is zoned M-1, which does not list electrical generation as a permitted use.

However, the City can process this project by Section 12.301-B. This section permits uses subject to a conditional use permit (Director's Class), as long as the use is not expressly prohibited, which the use of site for power generation is not in the M-1 District. The relevant use is #11 within Section 12.301-B, which states that a public utility or public service structures are permissible. Even though the BEC will be privately owned and operated, it will provide energy to Pacific Gas & Electric (PG&E), which is a bona fide public utility. During our meeting on August 30, 2006, it was

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determined that the use of the site for energy generation by a private company to supply energy under a long term contract with PG&E is consistent with the use described in Section 12.301-B.

The City of Fresno Zoning Ordinance, Section 12.405, requires a CUP for certain uses of land or types of businesses that are not allowed as matter of right. Three findings determine the permitting of a CUP:

1. All applicable provisions of the City of Fresno Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls, and fences, parking, loading, recycling areas, landscaping, and other required features.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by proposed use.
3. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses that are subject to the provisions of Section 12-306-N-30 of this Code.

Fresno Zoning Ordinance, Section 12-408, requires a Director Classification CUP for certain uses of land or types of businesses that are not specifically listed in the Zoning Ordinance, but are similar to listed uses. Four findings determine the permitting of a CUP:

1. The subject use and its operation are compatible with the uses permitted in the district where it is proposed to be allowed.

The proposed use will be consistent with the type of uses that exist on adjacent properties. North of the project area is vacant land, west is Highway 99, south is a large manufacturing plant, and to the east are railroad tracks. The plant will have less than significant noise and environmental impacts, therefore finding 1 can be made.

2. The subject use is similar to two or more uses permitted in the district within which it is proposed to be allowed.

A non-nuclear electrical generation facility does not have any similar uses within the M-1 zoned district. It does, however, have uses that will have similar impacts to the proposed use. The electrical generation facility will have comparable traffic and environmental impacts with allowable uses in the M-1 District and existing uses.

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3. The subject use will not cause substantial injury to the value of the property in neighborhoods or districts within which it is likely to be located.

The proposed use is self-contained and will not have spillover affects or negative impacts on adjacent manufacturing operations. The proposed use, an electrical generation facility, will not have an adverse effect on the abutting properties, as the property to the north is vacant and to the south is a large manufacturing plant.

4. The subject use will be so controlled that the public health, safety, and general welfare will be protected.

During the meeting on August 30, 2006, attended by your staff, and URS representatives Cindy Poire, Eric Vonberg and Joel Schneider, the subject of the previous CUP Application No. C-02-46 was discussed. Although a Directors Class CUP was not specifically addressed in the staff report for the previously proposed energy generation facility, it is assumed that approval of a Directors Class CUP was issued by the City of Fresno for the 49 MW peaker unit application filed by DG Power. In addition, a Mitigated Negative Declaration was issued for CUP No. C-02-46.

The BEC will be evaluated by the California Energy Commission (CEC) since it is a 200 MW plant. Power facilities over 49 MW are permitted through the CEC. The CEC evaluates and processes a power plant project through the Application for Certification (AFC) process. The CEC staff determines whether a proposed project will comply with applicable laws, that all potentially significant adverse impacts are mitigated, and if the project will impact electrical system reliability and efficiency. This evaluation includes specific conditions of certification for the project to be implemented during construction, operation, and eventual decommissioning. A report is generated by staff that summarizes the evidence presented and the rationale for the findings reached and conditions imposed. This report will be used by the CEC for the basis of their final decision.

A Regulatory Program for the Energy Commission has been certified by the Secretary of the Resources Agency pursuant to the requirements of the California Environmental Quality Act. The Commission does not prepare Environmental Impact Reports but prepares functionally equivalent environmental assessments including Staff Assessments and Committee reports. Public involvement is an essential element to the Commission's permitting process.

The AFC license process includes a series of information gathering and analytical phases leading to the final decision to approve/certify or deny a proposed power project. Once a project is certified, the Commission monitors the project until it is decommissioned.



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Bullard Energy Center, LLC, the applicant for the BEC, requests that the City of Fresno review the BEC project for consistency with the Fresno Zoning Ordinance, Section 12-408 Directors Classification CUP. Although the CEC will act as lead agency, it is important that the City of Fresno make a determination that the use of the proposed site for power generation is consistent with the Fresno Zoning Ordinance.

Attached is a Project Description of the BEC and all proposed off site improvements associated with the power generation facility. In addition, there is a visual simulation and a noise study. Please let me know if there are any questions or if you require additional information.

Sincerely,
URS Corporation

A handwritten signature in blue ink, appearing to read "Douglas L. Hahn".

Douglas L. Hahn
Project Manager

Attachments: *Section 3.0, Facility Description and Location*
Section 5.12, Noise
Figure 1.1-1, Architectural Rendering of Project Site

cc: Mr. Gary Chandler