



Planning and Development Department

2600 Fresno Street Third Floor
Fresno, California 93721-3604
(559) 621-8003 FAX (559) 488-1020

Keith Bergthold
Acting Director

DOCKET	
06-AFC-8	
DATE	MAY 07 2007
RECD.	APR 25 2007

April 25, 2007

Please reply to:
Keith Bergthold
(559) 621-8049

Paul C. Richins, Jr., Project Manager
Energy Facilities Siting Division
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, California 95814

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION RELATED TO BULLARD ENERGY CENTER (06-AFC-8)

Dear Mr. Richins and staff:

The following is in response to your letter dated March 29, 2007. As you are aware, the City of Fresno in a letter dated March 30, 2007 to Bullard Energy Center (see attached) outlined the necessary steps that would be required for the proposed 200 megawatt power generation facility to proceed through the city's entitlement process. Although it is uncertain at this point in time whether the Bullard Energy Center Project will move forward, the content of this letter is in response to your request for additional information.

Land Use

While the City of Fresno recognizes its previous approval in 2003 of a 48 megawatt power facility on the same property (Conditional Use Permit No. C-02-046) for the reasons cited in our letter of March 30, 2007 that action was not appropriate. In addition, this entitlement expired on July 12, 2006. Notwithstanding this previous action, it is the firm belief of the Department that the 200 megawatt energy facility proposed for the subject site is not an allowed use in the M-1 (*Light Manufacturing*) zone district. The most appropriate land use designation and zoning for this project is heavy industrial planned land use and the M-3 (*Heavy Industrial*) zone district where this type of land use is first permitted. In addition, a conditional use permit is required to authorize the development of the proposed 200 megawatt energy facility. A general plan amendment application together with a rezone request will be necessary to facilitate this request. These applications would typically take several months to review and present to the Planning Commission and City Council for final decision. This timeline could be greatly extended if it is determined that the preparation of an Environmental Impact Report (EIR) is required pursuant to the requirements of the California Environmental Quality Act (CEQA). It is expected that, if approved, there will be many conditions of approval imposed to assure consistency and compatibility as noted in our attached letter dated March 30, 2007.

PROOF OF SERVICE (REVISED 5/1/07) FILED WITH 5/1/07
ORIGINAL MAILED FROM SACRAMENTO ON 5/7/07

Alternative Sites

As stated above, it is the City's position that the most appropriate land use and zoning for the project is heavy industrial planned land use and M-3 (*Heavy Industrial*) zoning. The vast majority of this land use classification and zoning is located in the southern portion of the city (see attached maps). The City of Fresno can assist in the location of these designated properties.

Traffic and Transportation

Although the proposed project is not expected to generate a significant amount of traffic upon its completion, the city does expect the project applicant (Bullard Energy) to construct any necessary street improvements and pay appropriate traffic impact fees to both the City of Fresno and Caltrans. Please be advised that the proposed project is adjacent to the proposed interchange of Veterans Boulevard with State Route 99. It is unknown at this time what the project's pro-rata share of improvements and/or impact fees towards the development of that interchange may be.

Visual Resources

The project applicant has consistently expressed to city staff that visual mitigation in terms of landscape buffers, proper tree selection, architectural appearance and color schematics of buildings and structures are considerations that they would embrace. The appearance of the facility is an issue that has been raised by both staff and the neighborhood. The city appreciates the applicant's willingness to cooperate on this aspect of the project.

Water Resources

The City of Fresno will typically issue detailed conditions of approval on all entitlements submitted for processing in regards to sewer, water, and drainage (Fresno Metropolitan Flood Control District). While there may have been discussions with various staff members from the Department of Public Utilities, Planning and Development staff is unaware of any "Will Serve" letters that have been issued. It is not uncommon for a project applicant to seek early input from key city departments regarding their project, however, formal submittal of a project through a site plan review or conditional use permit are the most appropriate avenue to secure proper conditions of approval. Although the Application for Certification (AFC) presents a wealth of detailed information it is considered a supplementary document and not an official city entitlement or environmental document. Furthermore, the drawings submitted as part of the AFC were difficult to evaluate. (see letter dated March 23, 2007).

The water analysis presented in the AFC appears to indicate that the primary source of water will come from the City of Fresno water transmission system. There had also been some

Paul C. Richins, Jr.
California Energy Commission
April 26, 2007
Page 3

previous discussion by Bullard Energy with city staff regarding potential water treatment in southeast Fresno. This aspect of the project remains unclear.

In summary, the City acknowledges the commitment and investment put forth by the Bullard Energy Center regarding the proposed power facility. The project applicant's patience and cooperative nature in this venture are recognized and appreciated. It is the strong belief of the City that future endeavors such as these require early outreach to key local agency departments to assist in the site selection process and analysis. Despite the pre-emptive status of this project as allowed by state law regulating such facilities and the California Energy Commission, the city remains concerned about the long-term benefits of the proposed energy facility that would be available to the Fresno metropolitan area during periods of peak electricity demand.

If you have any questions regarding this matter, please contact me at (559) 621-8049.

Respectfully,



Keith Bergthold, Acting Director
Planning and Development Department

Enclosures: Letter dated March 30, 2007 to Gary Chandler
Letter dated March 29, 2007 to Keith Berthold
Letter dated March 23, 2007 to Mary Dyas
Generalized Land Use Maps
Generalized Zoning Maps



Planning and Development Department

2600 Fresno Street Third Floor
Fresno, California 93721-3604
(559) 621-8003 FAX (559) 488-1020

Keith Bergthold
Acting Director

March 30, 2007

Please reply to:
Keith Bergthold
(559) 621-8049

Gary Chandler
Bullard Energy Center, LLC
2442 Singletree Lane
South Jordan, UT 84095

SUBJECT: PROPOSED 200 MEGAWATT POWER GENERATION FACILITY LOCATED AT 5829 NORTH GOLDEN STATE BOULEVARD IN THE CITY OF RESNO

Dear Mr. Chandler:

The Planning and Development Department appreciates your patience and diligence in your pursuit of the proposed 200 megawatt electrical generating facility located at 5829 North Golden State Boulevard ("Subject Site"). Staff acknowledges the tremendous amount of investment that Bullard Energy, LLC has incurred to date in the preparation of the materials, studies, and meetings with the neighborhood and city staff.

Please be advised that the City is in receipt of a letter from the California Energy Commission (CEC) dated March 29, 2007, see attached, requesting additional information from the city in regards to your project. The City of Fresno will respond to the request for information from the CEC within the allotted time frame. However, the Department believes it is important that Bullard Energy, LLC, is fully cognizant of the City of Fresno's position and concerns regarding this project.

While the City understands the necessity for energy production and facilities such as the one proposed, we have been asked whether we could approve the proposed facility at the Subject Site from a land use perspective.

From a land use perspective we need to consider general plan and zoning consistency, the ability to make necessary findings to support the proposed facility, neighborhood compatibility, environmental impacts and prospective mitigation and future growth impacts to the northwest portion of the Fresno community.

Upon review of the documents submitted and meetings conducted with representatives from both Bullard Energy Center, LLC and staff from the California Energy Commission, staff is of the position that we could not currently find that the proposed facility could be an approved use of land on the Subject Site.

First, there is no question that the proposed use is not a listed use under the City's plans and zoning in any area of the City except an area planned heavy industrial and zoned M-3. Additionally, even in an M-3 zone district this use would not be by right but would be allowed only by conditional use permit ("CUP"). Therefore, on its surface, the proposed facility would not be allowed at the Subject Site, which is planned light industrial and zoned M-1.

You have made the argument that your use should be allowed as a public utility under Fresno Municipal Code ("FMC") Section 12-403-B-11. Section 12-403 of the FMC allows certain listed uses to go into any zone district with a CUP (under Sections 12-405 and 12-406) so long as (1) the use is not expressly prohibited; (2) the use is found by the Director of Planning and Development Department to be essential and desirable for the public welfare and convenience and (3) the use is in conformity with the General Plan and its objectives. One of the uses listed under the 12-403 CUP exception is a "public utility and public service structures, uses and buildings." From our review and consideration of your proposed facility, in consultation with the City Attorney's Office, we cannot find that your facility would meet the description of a "public utility" and/or "public service" structures, uses and buildings under our municipal code.

In response to this position, you submitted a copy of your self certification of exempt wholesale generator status to the Federal Energy Regulation Commission ("FERC") and the Notice of Filing of that self certification which provided that you would be a "public utility." Although we understand that under federal statutes, Bullard Energy Center, LLC, may be considered a "public utility," it does not necessarily follow that the term "public utility" would be interpreted the same way under the FMC. For example, the City of Fresno's Water and Sewer Divisions are not public utilities under the California Public Utilities Code. The reason for this is that the PUC is intended to regulate private companies. Notwithstanding the PUC's viewpoint as to the City's water service to the public, the common language and traditional usage would consider that function and operation to be a public utility. Therefore, although we considered the documents you submitted, we do not find that they alter the City's interpretation of the relevant provision of the municipal code. The traditional use of the term "public utility" would mean a company that provides its services to the public and all members of the public have an equal right to their service. This is not the nature of your business.

Additionally, in the context of the 12-403 CUP exception for a public utility, it could be seen why the City would create an exception to allow a City water well site next to a residence in a residentially zoned area or next to a grocery store in a commercially zoned area or similarly PG&E placing a power line in the backyard of a residence regardless of the zone district. However, we cannot find that the same analysis holds for the proposed facility. Even if we could find that you are a public utility, the Director cannot find based upon the documents you have submitted that the proposed facility is either essential or desirable for the public welfare and convenience at this location or that it meets the policies of the City's 2025 General Plan.

Based upon the above, we cannot at this time find that the proposed facility would be an allowed use at the Subject Site.

For the City to make such a finding that the Subject Site is the appropriate location, the following actions would be needed and/or matters be addressed:

- Plan Amendment and Rezone. The proposed facility is a use that is not permitted in the light industrial planned land use designation of the 2025 Fresno General Plan and current M-1, *Light Manufacturing*, zone district. Therefore, the filing of a general plan amendment to heavy industrial planned land use and a rezone application to M-3, *Heavy Industrial*, zoning would be necessary to comply with local ordinances and regulations. Furthermore, a conditional use permit would also be required to be filed to authorize the proposed 200 megawatt electrical generating facility.
- Health, Safety and Welfare Findings. Notwithstanding the submittal of the aforementioned entitlements, staff will still be required to make the necessary findings to support the proposed use which will necessitate substantial neighborhood support of prospective mitigation measures that lessen the impacts from aesthetics, noise, and air emissions to surrounding properties.
- Public Hearings. The public hearings at the local government level will allow an open process that facilitates neighborhood input and review of all mitigation measures. To this end, the City's actions on these entitlements shall be forwarded to the proper state agencies for their consideration and prospective implementation as mitigation measures to the project.
- Benefit to the City. Staff still has serious concerns regarding the production of energy from the proposed facility in that there are no guarantees as to how much of the produced energy will be of direct benefit to the city of Fresno. In addition, staff finds that classification of Bullard Energy as a public utility does not meet the definition of local laws and ordinances. Potential mitigation to this concern may include written assurances to the City of Fresno as to the amount of energy that will be delivered to the local entity.

While we understand that the City is not the permitting agency for your proposed facility, we cannot find that the proposed facility would be an allowed use for the Subject Site without the above actions being taken and/or matters being addressed. It is the belief of the Department that accommodating these actions would enhance the viability of your project but would also garner support from the neighborhood. Please be advised that while these recommended actions are optional, your consideration of these items during the processing of your request with the California Energy Commission would be greatly appreciated and would express your commitment to maintaining a high quality of life for the residents of the City of Fresno. Should have any questions on this matter, please contact me at your convenience.

Gary Chandler
Bullard Energy Center, LLC
March 30, 2007
Page 4

Sincerely,

PLANNING AND DEVELOPMENT DEPARTMENT



Keith Bergthold
Acting Director

Attachment: Letter from the California Energy Commission dated March 29, 2007

C: David Jenkins, Bullard Energy Center, LLC
Mary Dyas, California Energy Commission
Mayor Alan Autry
Andy Souza, City Manager
Fresno City Councilmembers
James C. Sanchez, City Attorney
Kathryn Phelan, Deputy City Attorney

K:\California Energy Commission issues\Bullard Energy LP - N Golden State Blvd - 2007\Letter to Bullard Energy - 3-29-07-rev1.doc

CALIFORNIA ENERGY COMMISSION

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



March 29, 2007

DOCKET	
06-AFC-8	
DATE	MAR 29 2007
RECD.	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

Mr. Bergthold
March 29, 2007
Page 2

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.

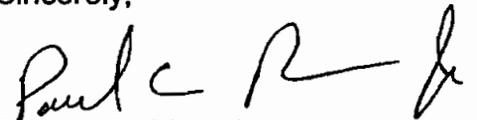
The Applicant has submitted to the Energy Commission "will serve" letters from the City committing to provide municipal water and wastewater disposal (sewer collection) services to the BEC project. The AFC describes the project's plan to use municipal water supplied by the City of Fresno and proposed 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.

Mr. Bergthold
March 29, 2007
Page 4

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 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**

APPLICANT

Gary Chandler, President
Bullard Energy Center, LLC
P.O. Box 95592 South Jordan, UT
84095-0592
grchandler@gmail.com

David Jenkins
Environmental Consultant
Bullard Energy Center, LLC
1293 E Jessup way
Mooresville, IN 46158
davidjenk@gmail.com

APPLICANT'S CONSULTANTS

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URS Corporation
2020 East First Street, Suite 400
Santa Ana, CA 92705
maggie_fitzgerald@urscorp.com

COUNSEL FOR APPLICANT

Allan Thompson
21 "C" Orinda Way, No. 314
Orinda, CA 94563
allanori@comcast.net

INTERESTED AGENCIES

Larry Tobias
Ca. Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
LTobias@caiso.com

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

INTERVENORS

ENERGY COMMISSION

JOHN L. GEESMAN
Presiding Member
jgeesman@energy.state.ca.us

JEFFREY D. BYRON
Associate Member
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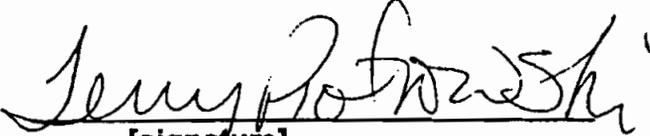
DECLARATION OF SERVICE

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]



2600 Fresno Street • Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 488-1020

Planning and Development Department
Keith Bergthold, Acting Director

Please Reply To:
Michael Sanchez
Mike.Sanchez@fresno.gov
559-621-8040

March 23, 2007

BY FACSIMILE to 916-654-3882; hard copy to follow

Mary Dyas, Project Manager
Energy Facilities Siting Division
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, California 95814

Dear Ms. Dyas and staff:

SUBJECT: REQUEST FOR ADDITIONAL INFORMATION RELATED TO BULLARD ENERGY CENTER APPLICATION FOR CERTIFICATION

We met with one of the environmental consultants for Bullard Energy Center last month to explain our request for more information on the proposed facility. We provided him with the City of Fresno's standard requirements for plan submittals, a listing of necessary details for applications as authorized by Fresno Municipal Code (FMC) Section 12-406-B-1 (copies of the City application document requirements are enclosed). These details and the required format of the submitted drawings are necessary for us to evaluate a proposed project's compliance with zoning ordinance provisions, Public Works standards, and previously-certified environmental impact report parameters pertaining to the proposed project location.

FMC Section 12-405-A-2 requires that conditional use permits (CUPs, the type of special permits required for non-nuclear generating facilities which may be permitted in the City's M-3, *Heavy Manufacturing District*, pursuant to FMC Section 12-408-E-22.c) be evaluated in a comprehensive manner, in order that findings may be made relating to the appropriateness and effects of proposed projects upon areas in which these projects are located. This evaluation goes beyond a mere determination of compliance or noncompliance with specific development standards of individual zone districts. The need to make findings for approval of a CUP necessitates that many factors be taken into consideration by the City, including not only the standard graphic detail required of all site plan applications, but also additional operational detail and information related to the project setting.

Approximately one week after meeting with the consultant from Bullard Energy Center, we received their drawings and aerial photos. Planning Division staff met and evaluated the submitted materials, but found that they did not contain all the requested information in sufficient detail.

We requested additional information of Bullard Energy representatives in a meeting in our office last week, but they did not agree to supply corrected drawings or additional information.

Following is a list of graphic information and detail that we would need (with graphic information in the format specified in our enclosed application guidance documents) in order to assess compliance of the proposed project with City of Fresno requirements:

Relating to site plan drawings, the following need to be depicted and dimensioned on the site plan:

- Square footage and proposed use of each structure proposed and existing on the property, with buildings to be removed noted as such;
- Length and width of each structure proposed and existing on the property;
- Locations and sizes of all proposed storage tanks and bins;
- Setbacks from property lines detailed/dimensioned on the drawings;
- Locations and dimensions of above-ground and below-ground utility-related equipment such as poles/towers, cabinets/vaults, backflow preventers, meters, risers, and valves;
- Locations and designated uses of all easements on the property, for access, drainage, utilities, irrigation, etc.;
- Fencing/wall locations detailed on all sides of the property and in its interior;
- Landscaping (number and types of trees & shrubs, and types of ground cover, to be planted on the site and in the required major street landscape area;
- Interior driving aisles, parking, and truck loading/unloading areas; and
- Dimensions of, and inlets and outlets to, any on-site basin, along with a description of the purpose of the basin. (If the property has drainage service provided by Fresno Metropolitan Flood Control District, why is this on-site basin being proposed? If any water other than surface runoff will be discharged into this basin, the basin needs to be depicted as an on-site disposal facility and all related monitoring and treatment equipment required by California Regional Water Quality Control Board needs to be depicted on the site plan.)

Relating to elevation drawings, the following need to be depicted and dimensioned on these drawings:

- Correct scale on the drawings (Scale on the drawings given to us was incorrect: one inch/1" actually equaled fifty feet/50' on these drawings, not the forty feet/40' stated on the drawings)
- Elevations depicted from all four cardinal directions, as well as from North Golden State Boulevard (which is a diagonal street)
- Names/uses of all the structures proposed and existing on the property, with existing structures to be removed noted as such
- Heights, widths, and lengths of all structures
- Elevation drawings should show roof-mounted equipment, such as HVAC and exhaust equipment (with the types/functions of this roof-mounted equipment noted)

(continued)

Exterior finish information for structures and all walls and fences: materials, textures, colors, window finishes, trim details, and gate details (NOTE: Any security wire would require a special approval process pursuant to FMC Section 12-306-N-10)

Details on the proposed exterior site lighting: mounted on exterior buildings? Poles? Both? Heights of lights? Hoods on lights to shield or direct illumination? Warning lighting on stacks? (Sierra Sky Park general aviation airport is within 2.5 miles of this site.)

Details on the "chemical feed building"

Details on the "fuel gas regulating area"

Details on the transformer proposed to be located along North Golden State Boulevard (City standards do not allow above-ground utility equipment to be located in major street landscape easement areas, unless it can be adequately screened)

Relating to operational information (if any of the following items are answered by information provided in the Application for Certification, please provide page references):

Is this the ultimate extent and size of the facility? Is there any chance that one or more additional generating units or additional auxiliary buildings would be added in the future?

Is there any chance that the type of fuel substrate for this plant would change in the future?

Questions related to the acoustical study:

- (1) How can a masonry wall six feet tall (as shown on the exhibits provided to us) mitigate noise from structures and ancillary equipment several times taller?
- (2) Has the pitch (not just the volume) of facility noise been considered in any acoustical studies? (The City has found that some pump and mechanical equipment noise—perceived as a nuisance "whine"—is sufficiently disturbing to require mitigation even though decibel levels are within City Noise Ordinance standards.)
- (3) Has ground vibration been considered and mitigated?

Questions relating to water usage and proposed mitigation for that:

- (1) Has Fresno Irrigation District (FID) conclusively ruled-out a potential surface water supply for this facility, even when proposed as an exchange of surface water in lieu of groundwater pumping? If surface water supply would be possible, the exhibits would need to detail conveyance from the nearest public FID facility.
- (2) If nitrate abatement/treatment of one or more City water wells in east/southeast Fresno is part of this project as a proposed mitigation measure, details regarding the proposed treatment modality, equipment, and locations would need to be provided in the project description, and community outreach and information should be provided for persons living near those proposed treatment locations as part of the project review.
- (3) What kind of water treatment is proposed to be done on-site, and will it be for supply, or used process water, or both? How will treatment process wastes be stored/handled?

A proposed gate operational statement (required by City Public Works Department, Engineering Division, Traffic Planning Section)

Mary Dyas, CEC Energy Facilities Siting Division
RE: Additional information requested regarding Bullard Energy Center/Fresno
March 23, 2007
Page 4

Thank you for your assistance in obtaining this information from the applicant as soon as possible, so that we can evaluate this project in conjunction with our local plans, ordinances, standards, and certified environmental documents.

We appreciate the Energy Commission's efforts to consult with and inform our department and the community regarding this proposed project, and we look forward to working with you further on the evaluation of this application.

Sincerely,
PLANNING DIVISION



Sandra L. Brock, REHS

Enclosures: SUBMITTAL REQUIREMENTS FOR ALL SITE PLANS, Planning and Development
Department (obverse of standard application form)
SUBMITTAL REQUIREMENTS CHECKLIST FOR ALL SITE PLANS, and ADDITIONAL
REQUIREMENTS, Public Works Department Engineering Division Traffic Planning
Section form (both sides)

cc: Keith Bergthold, Acting Planning and Development Director
Gil Haro, Planning Manager
Darrell Unruh, Planning Manager
Mike Sanchez, Supervising Planner
Kathryn Phelan, Deputy City Attorney
Renna Ramirez, Director of Public Utilities, City of Fresno
Lon Martin, Water Division Manager, City of Fresno Department of Public Utilities

SUBMITTAL REQUIREMENTS FOR ALL SITE PLANS

The purpose of the site (or plot) plan is to enable the Development Department to determine whether or not a proposed development conforms with Zoning Ordinance regulations. The requirements listed below are necessary to ensure proper review based on complete information and to prevent unnecessary delays in the processing of applications. Improper or incomplete site plans will not be accepted.

A. GENERAL REQUIREMENTS:

1. The plan must be drawn on a 24" by 36" or larger sheet of paper.
2. The plan shall include a vicinity map showing local and major streets and a north arrow (to the North), a legal description of the subject property, and be drawn to a scale (clearly shown under the North arrow) large enough to show all required information.
3. The plan must show the entire parcel of property described in the application. If only a portion of an existing parcel is to be developed, a key map shall be included showing the entire parcel.
4. Indicate phase lines.

B. SPECIFIC INFORMATION TO BE SHOWN:

1. All existing and proposed buildings and structures, including buildings to be removed. Building should be labeled as either existing or proposed.
2. The proposed use of all buildings and structures.
3. All adjacent streets and roads and their names.
4. Access to the property: pedestrian, vehicular, and service.
5. Proposed street improvements and dedications.
6. Existing and proposed off-street parking, bicycle racks and loading areas: show location and type of paving, number of spaces (including detailed layout) and internal circulation pattern by providing the following measurements:

- Size of stalls.
- Directional flow of traffic.
- Wheel stops.
- Handicap parking.
- Width of circulation aisles.
- Handicap ramps.

7. Existing and proposed on-site lighting: location, type of fixtures, height and method of controlling glare and illumination.
8. Walls and fences: location, height, and type of material.
9. Location of existing and required public and private fire hydrants, access and fire lanes per Fire Department standards.
10. Such other information as may be pertinent to the application.

C. ELEVATIONS:

1. Exterior elevations representing all building views.
2. Composition and colors of all building exterior surfaces.
3. Dimensions to scale depicting existing and proposed buildings size and height (inclusive of all proposed roof mounted equipment).

D. LANDSCAPE PLANS

1. Indicate size, number and location of existing and proposed trees, shrubs, ground cover, etc.
2. Location of street tree wells.
3. Parking lot shading calculations.

SPECIAL PERMIT ROUTING

The City of Fresno will normally route your project to the following departments, agencies and organizations for review and comment.

____ Fresno Metropolitan Flood Control Dist.
____ Public Works/Traffic
____ Parks and Recreation
____ Fire Department
____ Public Utilities/Solid Waste Mgmt.

____ Development Planning Division
____ Development Building and Safety
____ Public Works/Engineering Services
____ Public Utilities/Water Division
____ Police Department

____ Fresno County Environmental Health
____ Air Pollution Control District
____ Fresno Irrigation District
____ Schools

You may expedite our review of your application if you - (1) Get written response from the above noted agencies, (2) Contact in advance, any neighborhood committees, and/or (3) Schedule a pre-application review with staff.

AGENCIES AND ORGANIZATIONS ARE GIVEN 10 DAYS TO REVIEW AND COMMENT UPON A PROJECT.

CITY OF FRESNO - Traffic Planning Section
SUBMITTAL REQUIREMENTS CHECKLIST FOR ALL SITE PLANS

The purpose of the site plan is to enable the Traffic Engineering Division to determine whether or not a proposed development conforms to the requirements of the City of Fresno Public Works Department. The requirements listed below are necessary to ensure proper review based on complete information and to prevent unnecessary delays in the processing of applications.

PROVIDE THE FOLLOWING INFORMATION INDICATED BY A CHECK MARK (✓):

A. GENERAL REQUIREMENTS:

PROJECT NO: _____

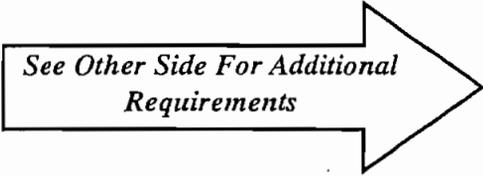
DATE: _____

- 1. The plan must be drawn on a 24" x 36" or larger sheet of paper.
- 2. The plan shall include a vicinity map showing local and major streets and a north arrow, a legal description of the subject property, and be drawn to a scale (clearly shown under the north arrow) large enough to show all required information.
- 3. The plan must show the entire parcel of property described in the application. If only a portion of an existing parcel is to be developed, a key map shall be included showing the entire parcel.
- 4. Indicate phase lines.
- 5. All property lines and easements shall be identified and dimensioned.
- 6. Indicate scope of work.

B. SPECIFIC INFORMATION TO BE SHOWN:

- 1. Identify **all** existing and proposed buildings and structures, including buildings to be removed. **Building should be labeled as either existing or proposed.** Identify square footage.
- 2. Identify **all** existing off-site concrete improvements e.g.: curb, gutter, sidewalk and driveway approaches. Identify sidewalk and driveway approach widths. Provide a legend of **all** proposed and existing items.
- 3. Identify **all** adjacent streets and roads and their names.
- 4. Identify access to property: pedestrian, vehicular and service.
 Identify **all** street furniture, e.g., street lights, public utility poles and boxes, guy wires, signs, fire hydrants, bus stop benches, mail boxes, news stands, trash receptacles, tree wells, etc. within the public right of way. Also, identify the required **4-foot** minimum path of travel along the public sidewalk directly in front of property, as required by the California Administration Code (Title 24). A pedestrian easement may be required if the Title 24 requirements cannot be met.
- 5. Identify center and/or section lines. Provide the dimension from the center and/or section line to the property line.
- 6. Identify median islands and their openings (specify existing or proposed).
- 7. Identify proposed street improvements, dedications and or vacations.
- 8. Identify existing and proposed off-street parking, bicycle racks and loading areas: show location and type of paving, number of spaces including a detailed layout and an internal circulation pattern by providing the following:

<input type="checkbox"/> Size of stalls	<input type="checkbox"/> Directional flow of traffic
<input type="checkbox"/> Wheel stops	<input type="checkbox"/> Disability Parking
<input type="checkbox"/> Width of circulation aisles	<input type="checkbox"/> Disability ramps
<input type="checkbox"/> Width of a walkway adjacent to parking stalls	
- 9. Identify existing and proposed on-site lighting. Specify location and clearance from parking stalls.
- 10. Identify walls and fences: location, height, and type of material.
- 11. Identify the location of existing and proposed public and private fire hydrants, access and fire lanes per City of Fresno Fire Department standards.
- 12. **Such other information as may be pertinent to the application** _____



CITY OF FRESNO - Traffic Planning Section
ADDITIONAL REQUIREMENTS

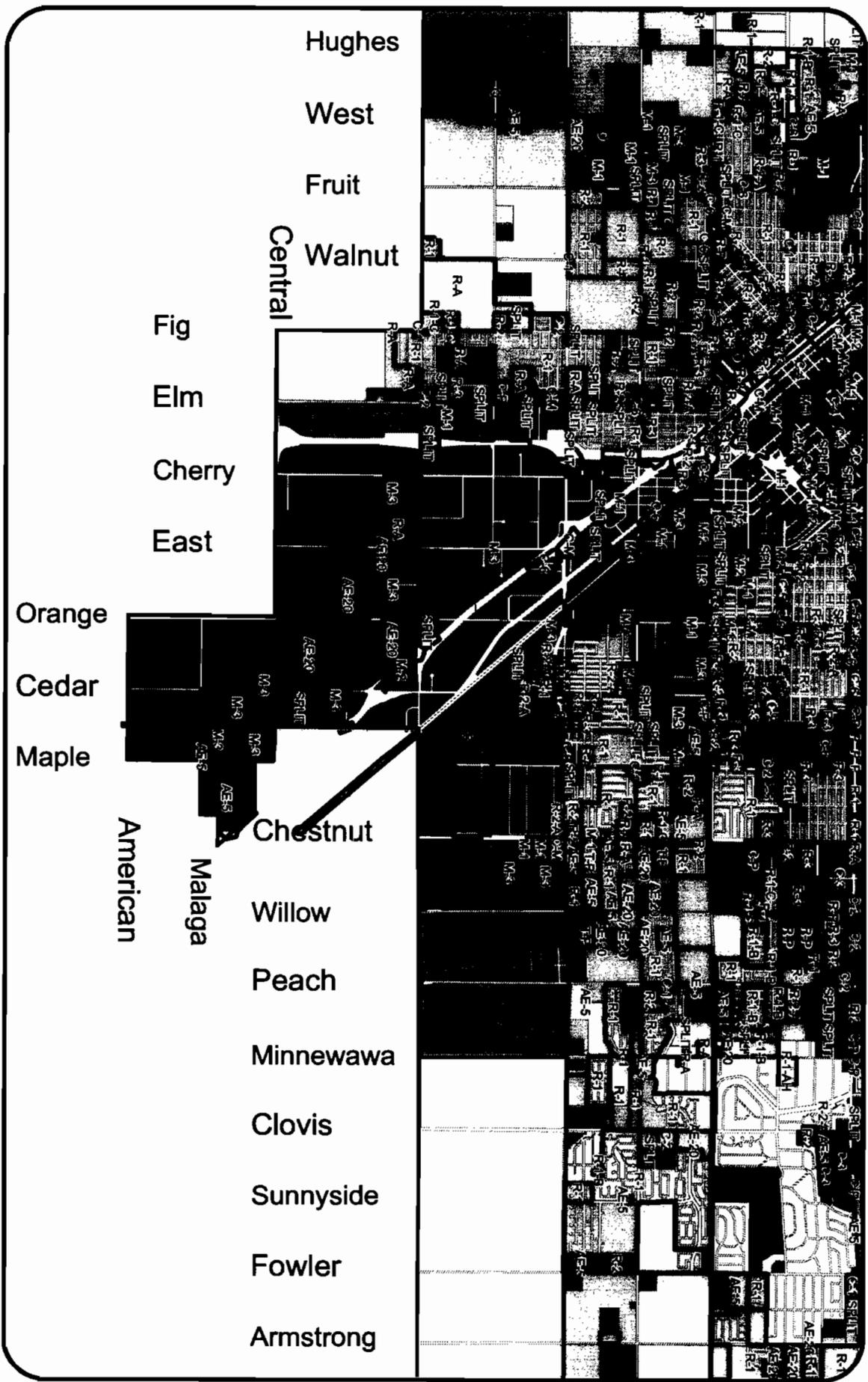
PROVIDE THE FOLLOWING NOTES ON THE SITE PLAN INDICATED BY A CHECK MARK (✓):

- 1. Any survey monuments within the area of construction shall be preserved or reset by a person licensed to practice land surveying in the State of California.
- 2. Repair all damaged and/or off-grade concrete street improvements, as determined by the Construction Management Engineer, prior to occupancy.
- 3. 2 working days before commencing excavation operations within the street right-of way and/or utility easements, all existing underground facilities shall have been located by UNDERGROUND SERVICES ALERT (USA). **CALL 1-800-642-2444**
- 4. All existing driveway approaches which no longer provide access to approved vehicle parking areas shall be removed unless otherwise approved by the City Engineer. Such areas shall be reconstructed with curb, gutter and sidewalk to match existing adjacent street improvements. This works shall be completed and accepted before a Permit of Occupancy is issued or the building is occupied per Fresno Municipal Code (FMC) 11-209
- 5. Submit Engineered Street Construction Plans to the Public Works Department.
- 6. Submit Street Lighting Plans to the Public Works Department, Traffic Engineering.
- 7. Deed(s) of easement(s) for the required dedication(s) shall be prepared by the owner/developer's engineer and submitted to the City with verification of ownership **PRIOR TO ISSUANCE OF BUILDING PERMITS.**
- 8. Any construction on State Highways must conform to both City of Fresno and State Division of Highways Specifications.
- 9. Construct concrete driveway approach to Public Works Standard(s) _____ and **P-4.**
- 10. Construct a street-type approach to Public Works Standard(s) **P-76 / P-77.**
- 11. Construct concrete curb ramp to Public Works Standard P-_____.
- 12. Construct concrete sidewalks, curbs and gutters to Public Works Standard **P-5.**
- 13. Install _____ feet of AC paving to Public Works Standard Specifications (To be measured from curb face).
- 14. Install 30" state standard "STOP" sign(s) at location(s) shown. Sign shall be mounted on a 2" galvanized post with the bottom of the sign 7" above ground; located behind curb and immediately behind major street sidewalk. Arterial Streets: A "RIGHT TURN ONLY" sign is also required at same location, install 30" x 36" State Standard sign immediately below the "STOP" sign on the same post.
- 15. The submitted project site is located within the City of Fresno's URBAN GROWTH MANAGEMENT (UGM) AREA. **UGM IMPROVEMENTS ARE REQUIRED.** Submittal of Engineered Construction plans for Public Works approval must be made **PRIOR TO ISSUANCE OF BUILDING PERMITS.** Contact the Public Works Department, Traffic Planning Section @ **559-621-8800** for details.
- 16. Underground all existing offsite overhead utilities within the limits of this site/map as per Fresno Municipal Code (FMC) Section 12-1011 and Resolution No. 78-522/88-229.



City of Fresno Standard Specifications
and Drawings available at
www.fresno.gov

PROJECT NO: _____



Hughes

West

Fruit

Walnut

Fig

Elm

Cherry

East

Orange

Cedar

Maple

American
Malaga

Chestnut

Willow

Peach

Minnewawa

Clovis

Sunnyside

Fowler

Armstrong

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 5/1/07)

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

APPLICANT

Gary Chandler, President
Bullard Energy Center, LLC
P.O. Box 95592 South Jordan, UT
84095-0592
grchandler@gmail.com

David Jenkins
Environmental Consultant
Bullard Energy Center, LLC
1293 E Jessup way
Mooresville, IN 46158
davidjenk@gmail.com

APPLICANT'S CONSULTANTS

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Senior Project Manager
URS Corporation
2020 East First Street, Suite 400
Santa Ana, CA 92705
maggie_fitzgerald@urscorp.com

COUNSEL FOR APPLICANT

Allan Thompson
21 "C" Orinda Way, No. 314
Orinda, CA 94563
allanori@comcast.net

INTERESTED AGENCIES

Larry Tobias
Ca. Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
LTobias@caiso.com

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

INTERVENORS

ENERGY COMMISSION

JOHN L. GEESMAN
Presiding Member
jgeesman@energy.state.ca.us

JEFFREY D. BYRON
Associate Member
jbyron@energy.state.ca.us

Garret Shean
Hearing Officer
Gshean@energy.state.ca.us

Mary Dyas
Project Manager
Mdyas@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Public Advisor
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Joann Gonzales, declare that on May 7, 2007, I deposited copies of the attached Letter from City of Fresno to CEC re: Additional Information related to 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.



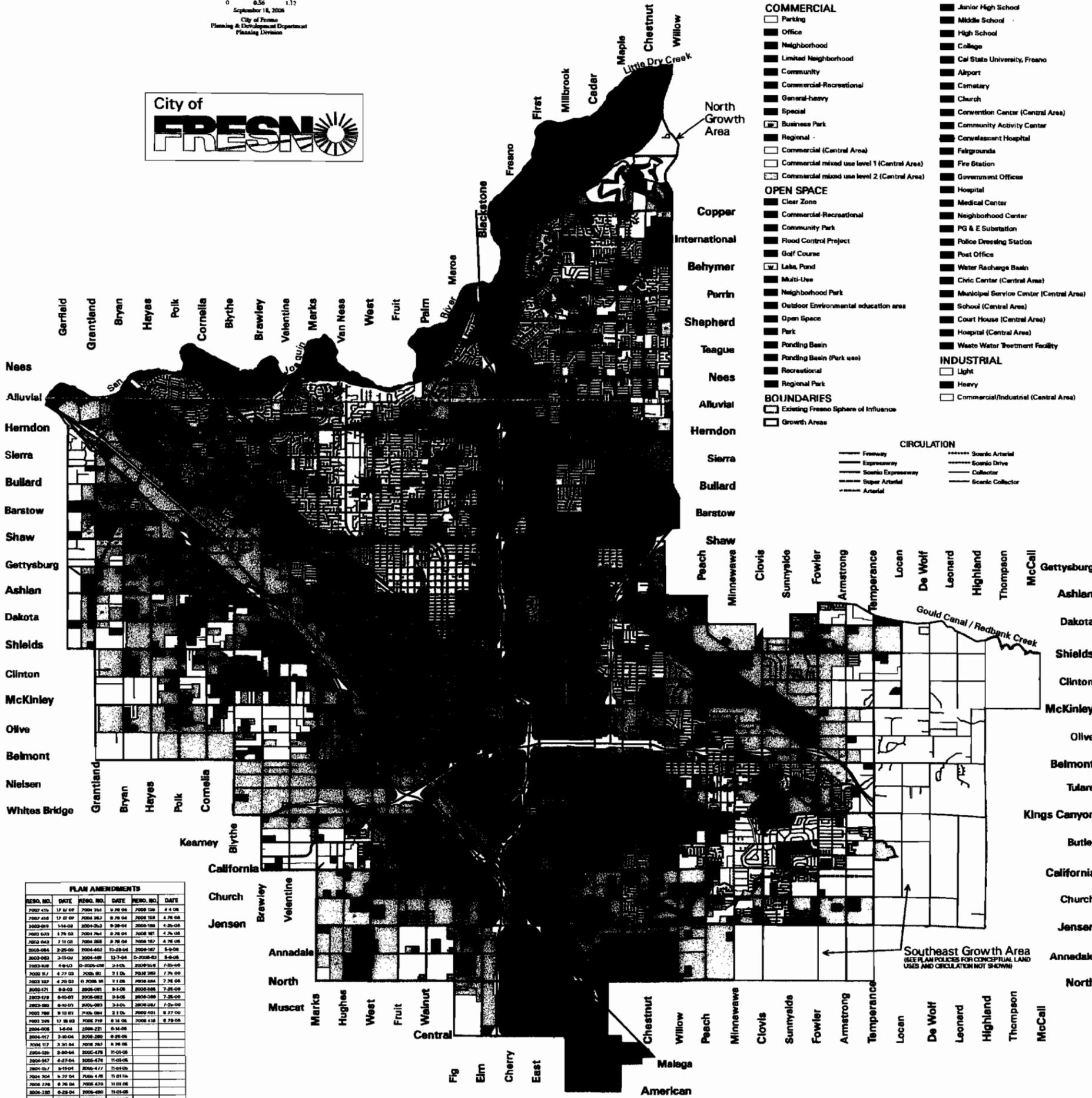
[signature]

City of Fresno 2025 Fresno General Plan Land Use and Circulation Map



LEGEND

- RESIDENTIAL**
- Low Density (0.0-2.18 D.U./acre)
 - Medium Low Density (2.19-4.98 D.U./acre)
 - Medium Density (4.99-10.37 D.U./acre)
 - Medium High Density (10.38-18.15 D.U./acre)
 - High Density (18.16-43.56 D.U./acre)
 - Residential (Central Area)
- COMMERCIAL**
- Parking
 - Office
 - Neighborhood
 - Limited Neighborhood
 - Community
 - Commercial-Recreational
 - General-heavy
 - Special
 - Business Park
 - Regional
 - Commercial (Central Area)
 - Commercial mixed use level 1 (Central Area)
 - Commercial mixed use level 2 (Central Area)
- OPEN SPACE**
- Clear Zone
 - Commercial-Recreational
 - Community Park
 - Flood Control Project
 - Golf Course
 - Lake, Pond
 - Multi-Use
 - Neighborhood Park
 - Outdoor Environmental education area
 - Open Space
 - Ponding Basin
 - Ponding Basin (Park use)
 - Recreational
 - Regional Park
- BOUNDARIES**
- Existing Fresno Sphere of Influence
 - Growth Areas
- PUBLIC FACILITIES**
- Public/Quasi-public Facility
 - Special School
 - Elementary School
 - Elementary & Junior High Schools
 - Elementary & Middle School
 - Elementary, Middle & High School
 - Junior High School
 - Middle School
 - High School
 - College
 - Cal State University, Fresno
 - Alport
 - Cemetery
 - Church
 - Convention Center (Central Area)
 - Community Activity Center
 - Convalescent Hospital
 - Fairgrounds
 - Fire Station
 - Government Offices
 - Hospital
 - Medical Center
 - Neighborhood Center
 - PG & E Substation
 - Police Dressing Station
 - Post Offices
 - Water Recharge Basin
 - Civic Center (Central Area)
 - Municipal Service Center (Central Area)
 - School (Central Area)
 - Court House (Central Area)
 - Hospital (Central Area)
 - Waste Water Treatment Facility
- INDUSTRIAL**
- Light
 - Heavy
 - Commercial/Industrial (Central Area)
- CIRCULATION**
- Freeway
 - Expressway
 - Scenario Expressway
 - Super Arterial
 - Arterial
 - Scenario Arterial
 - Scenario Drive
 - Collector
 - Scenario Collector



REG. NO.	DATE	REG. NO.	DATE	REG. NO.	DATE
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2009-121	1-14-09	2009-365	9-28-09	2009-88	1-26-09
2009-122	1-14-09	2009-366	9-28-09	2009-87	1-26-09
2009-123	1-14-09	2009-367	9-28-09	2009-86	1-26-09
2009-124	1-14-09	2009-368	9-28-09	2009-85	1-26-09
2009-125	1-14-09	2009-369	9-28-09	2009-84	1-26-09
2009-126	1-14-09	2009-370	9-28-09	2009-83	1-26-09
2009-127	1-14-09	2009-371	9-28-09	2009-82	1-26-09
2009-128	1-14-09	2009-372	9-28-09	2009-81	1-26-09
2009-129	1-14-09	2009-373	9-28-09	2009-80	1-26-09
2009-130	1-14-09	2009-374	9-28-09	2009-79	1-26-09
2009-131	1-14-09	2009-375	9-28-09	2009-78	1-26-09
2009-132	1-14-09	2009-376	9-28-09	2009-77	1-26-09
2009-133	1-14-09	2009-377	9-28-09	2009-76	1-26-09
2009-134	1-14-09	2009-378	9-28-09	2009-75	1-26-09
2009-135	1-14-09	2009-379	9-28-09	2009-74	1-26-09
2009-136	1-14-09	2009-380	9-28-09	2009-73	1-26-09
2009-137	1-14-09	2009-381	9-28-09	2009-72	1-26-09
2009-138	1-14-09	2009-382	9-28-09	2009-71	1-26-09
2009-139	1-14-09	2009-383	9-28-09	2009-70	1-26-09</