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

In the Matter of the: )
Application for Certification ) Docket No.
for the Quail Brush ) 11-AFC-03
Generation Project )

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, DECEMBER 10, 2012
10:30 a.m.

Reported by:
John Cota
Contract No. 170-09-002
COMMITTEE MEMBERS PRESENT
Karen Douglas, Presiding Member
Andrew McAllister, Associate Member

HEARING OFFICER, ADVISORS PRESENT
Raoul Renaud, Hearing Officer
Patrick Saxon, Advisor to Commissioner McAllister
Eileen Allen, Commissioners' Technical Adviser for Facility Siting

CEC STAFF PRESENT
Stephen Adams, Staff Counsel
Eric Solorio, Project Manager

OFFICE OF THE PUBLIC ADVISER
Jennifer Jennings, Public Adviser

APPLICANT
Ella Foley Gannon
Bingham McCutchen LLP
Lori Ziebart
Cogentrix Energy, LLC

INTERVENORS
Pete Hasapopoulos (via WebEx)
Sierra Club, San Diego Chapter
Val Hoy
John Kaup
HomeFed Fanita Rancho, LLC
Van Collinsworth (via WebEx)
Preserve Wild Santee
ALSO PRESENT

Gary Sallis (via WebEx)
Plumbers and Pipefitters, Local 230

Kevin Carroll (via WebEx)
CONNECT

Pauline Ma (via WebEx)
CleanTECH San Diego

Brit Coupens (via WebEx)

Scott Alevy (via WebEx)
East County San Diego Chamber of Commerce
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HEARING OFFICER RENAUD: This is Raoul Renaud, I am the Hearing Officer assigned to the Quail Brush Generation Project AFC here at the California Energy Commission. This is the status conference that was noticed to take place today, December 10th, 2012, beginning at 10:30 a.m.

Why don't we start off with introductions. First, to my immediate right is Commissioner Karen Douglas, who is the Presiding Member of the committee assigned to this matter. To my left is Commissioner Andrew McAllister, who is the Associate Member. And to his left is Pat Saxton, his advisor, and to Pat's left is Eileen Allen, the Commissioners' technical adviser for siting.

Let take introductions from the parties, beginning with the applicant, please.

MS. FOLEY GANNON: Good morning, Ella Foley Gannon, counsel to the applicant. And with me is Lori Ziebart, the project manager for the applicant

HEARING OFFICER RENAUD: Thank you.

And, let's see. From staff, please.

MR. SOLORIO: Yes, good morning. Eric Solorio, project manager for staff. And to my left is Stephen Adams, staff counsel for staff.
HEARING OFFICER RENAUD: Okay. And also at the table who do we have?

MR. HOY: Oh, I'm sorry. Val Hoy here on behalf of the intervenor, HomeFed Fanita Rancho. And to my left is John Kaup with my office.

HEARING OFFICER RENAUD: Very good, thank you. And also in the room is Jennifer Jennings, the Commission's public adviser.

And I can see from the screen here we have a lot of people participating remotely by WebEx. Let me ask if any of the persons on the phone are intervenors, and if so, would you please introduce yourselves. Maybe I'll --

MR. COLLINSWORTH: Yes, this is --

HEARING OFFICER RENAUD: Go ahead, go ahead.

MR. COLLINSWORTH: Van Collinsworth, Preserve Wild Santee, and also representing the Center for Biological Diversity this morning.

HEARING OFFICER RENAUD: Thank you very much. Any other intervenors on the line?

MR. HASAPOPOULOS: Pete Hasapopoulos for the Sierra Club, San Diego.

HEARING OFFICER RENAUD: All right, welcome.

MR. HASAPOPOULOS: Thank you.

HEARING OFFICER RENAUD: Go ahead. Other intervenors on the line?
HEARING OFFICER RENAUD: No? Let me just call the roll of intervenors quickly here. Rosalind Varghese?

(No response.)

HEARING OFFICER RENAUD: Rudy Reyes?

(No response.)

HEARING OFFICER RENAUD: Dorian Houser?

(No response.)

HEARING OFFICER RENAUD: Kevin Brewster?

(No response.)

HEARING OFFICER RENAUD: Phil Connor, Sunset Greens Home Owners Association?

(No response.)

HEARING OFFICER RENAUD: Rob Simpson, Helping Hand Tools?

(No response.)

HEARING OFFICER RENAUD: HomeFed Fanita Rancho?

MR. KAUP: Present.

HEARING OFFICER RENAUD: You're present. Yes, thank you, okay, good. All right, very good.

Now for those of you who are participating by computer or phone, we can hear you when you speak to us, we can also hear everything else you're doing near your phone. So if you would, please, keep the rustling of papers, extraneous conversations and so on to a minimum, we would
appreciate it. That would make it much easier for us to hear one another and to hear you.

If we do have a disturbance from any one of the callers we can mute that particular phone. We don't want to do that because then it prevents you from being heard, but we do have the ability to do that. Anyway, just please keep that in mind as we proceed through this morning.

I think the main business the Committee wants to accomplish with this status conference is to discuss possible revisions to the schedule. The applicant and staff both submitted proposed revised schedules in their status reports. Let me ask each of you to comment on the other's proposal, starting with the applicant, please.

And also let us know if there are any changes to your proposed schedule, applicant, since you filed it.

MS. FOLEY GANNON: No, we have no objections to staff's proposed revisions to the schedule. We are satisfied with what they proposed.

HEARING OFFICER RENAUD: All right. For the most part the schedule leading toward evidentiary hearings really times itself off the staff's preparation of the PSA and the FSA. Staff, your proposed schedule, I believe, calls for January 23rd for the PSA. Does that still look doable?

MR. SOLORIO: Yes it is. With the caveat that we do have the PDOC that we expected December 14th. Now it
looks like it may come to us -- well, it may be published rather about three weeks after that. We think we'll probably be able to get a copy of the conditions from the District. So I guess bottom line is it's possible we may end up publishing the last week of January. Maybe a week delay, give or take, or we may make the date. It depends on how soon we get those conditions.

HEARING OFFICER RENAUD: All right, thank you.

MS. FOLEY GANNON: And then from the applicant's perspective, we understand that they need to have the information from the PDOC. So if it's, if it was delayed by a week as a result of that we, again, would have no objection to that.

HEARING OFFICER RENAUD: Okay. Do any of the other parties wish to comment on the schedule?

As you all know, the Committee did extend the discovery period to December 14th, which means that four days from today will be the last day to submit data requests. Is that still looking workable as far as any -- any party can speak up. That would be the last day for submission of data requests.

MS. FOLEY GANNON: We have no objection.

MR. HOY: At this point we'll be prepared to submit our additional data requests. But the CPUC decision becomes final, I think, on December 20th. There may be some
value in pushing the date just beyond that so that if there
is anything new or different in that document it can be
inserted.

HEARING OFFICER RENAUD: All right. Well, I can
understand your point about the CPUC decision but I am going
to suggest that we wait and see what it says.

MR. HOY: Yes.

HEARING OFFICER RENAUD: And then if any party
feels a pressing need to be able to conduct discovery in
light of something that is in that decision, bring it to the
Committee's attention and we can consider it at that time.

MR. HOY: Thanks.

HEARING OFFICER RENAUD: All right. Let's see
here now. Preserve Wild Santee, you in your status report
mentioned an action by the city of San Diego changing some
open space from "designated open space" to "dedicated open
space." And I think the Committee is a little -- would like
to hear some elaboration about that if you can help us with
that. Just tell us what is the meaning of that and what
were the circumstances.

MR. COLLINSWORTH: Yeah, this is Van Collinsworth.
On November 27th the San Diego City Council had before it
the opportunity coming from Senator Kehoe's bill, Senate
Bill 1169, to take city-owned parcels that were designated
"open space" and convert those to "dedicated open space."
Which essentially gives another layer of protection to those parcels in that any of those parcels that became dedicated could not be changed unless there is a two-thirds vote of the people.

So from our perspective, the parcels in east valley and in the vicinity of the power plant that were changed to dedicated open space really reaffirmed their value for wildlife and recreation. That, of course, again from our perspective, brings Public Resources Code Chapter 6 Section 25527 back to the forefront and -- where obviously a power plant wouldn't be appropriate for areas that are designated for wildlife protection and recreation.

So from our perspective anyway, the action by the City Council just reaffirmed the prior position it had on these parcels and really what it's shown in terms of opposition to the power plant in the prior vote it had regarding the local land use regulations as well.

HEARING OFFICER RENAUD: Where are those parcels relative to the proposed site? Anybody? If you know or anyone?

MR. COLLINSWORTH: Well, most of the parcels are going to be to the west of the power plant option parcel. There are a few parcels that are also to the northeast. And, you know, we would expect all of those parcels, once the Master Plan Update for Mission Trails Regional Park is
completed, they'd actually be included in Mission Trails Regional Park.

HEARING OFFICER RENAUD: All right, thank you, that's helpful to the Committee, appreciate that.

MR. COLLINSWORTH: Sure.

HEARING OFFICER RENAUD: Commissioners, any questions? Okay.

I think any questions the Commissioners had were pretty much answered by the information you provided. But I would like to invite any party, staff, applicant, intervenors, to bring to the Committee's attention at this time anything you want to bring up. Let's start with the applicant.

MS. FOLEY GANNON: I don't think there was anything apart from what was in our status report that we need to bring up. I would just say in response to the comments that were just made about the city's action. I think that your question was going to, Hearing Officer Renaud, the parcels that were at issue were not the proposed project site so they are not affected by, by that action in any way.

HEARING OFFICER RENAUD: Good, thank you, okay.

Staff, anything you wish to bring up with the Committee?

MR. ADAMS: We don't have anything additional to
the status report, thank you.

HEARING OFFICER RENAUD: HomeFed, anything you want to bring up?

MR. HOY: No, not at this time.

HEARING OFFICER RENAUD: All right. Other intervenors. Any intervenor wish to raise anything with the Committee at this point?

MR. COLLINSWORTH: This is Van Collinsworth again. I just -- before we left the, I guess the idea or concept of what's happening with the open space around the power plant parcel. Again, there is in the plans a recreational trail which will be going through this area. The northwest -- excuse me. The northeast portion of the power plant parcel was contemplated or is contemplated for a recreational trail. So some of these dedicated parcels I would expect to be part of this trail. And obviously if this parcel became available and the land acquisition that has been a focus of this hearing was able to --

(Hammering heard over WebEx.)

MR. COLLINSWORTH: -- that could be a part of this as well. And so I would disagree with the applicant to say that the power plant doesn't affect the parcels around it. It certainly does and it affects even that one particular parcel and the investment that is being made in open space protection and recreation. Thank you.
HEARING OFFICER RENAUD: All right, thank you very much for that.

Any other intervenor wish to bring anything up with the Committee?

(No response.)

HEARING OFFICER RENAUD: All right, hearing nothing, okay, Commissioner McAllister, I understand you have something to bring up.

ASSOCIATE MEMBER McALLISTER: Let's see. Thanks for everybody being here. I do have a question for the applicant. And obviously intervenors can respond with their understanding as well as to how -- whether and how you see the proposed decision over at the PUC is affecting sort of your project and any other proceedings that are happening over there that might bring to bear on the need for the plant.

MS. FOLEY GANNON: From the applicant's perspective, that is a proposed decision. We are hopeful that the decision will change before it is finalized. And then we will have to evaluate what the impact of whatever the final decision is of the project on how we are moving forward. But at this time, again as I said, we are hopeful that it is going to change. It is a separate proceeding so we don't think at this point it impacts what is happening here. That's our perspective.
ASSOCIATE MEMBER McALLISTER: So just to follow up on that. So it's a proposed decision. Obviously it's not truly relevant for this yet until it becomes a final decision. And even then the proposed decision, you know, we -- I think all of you have read it -- see that it leaves some relatively point out as far as it doesn't consider renewables integration and the SONGS outage and things like that. So I guess I would ask where do you think those questions -- so what processes over at the Commission are you also looking at on those issues to fill in, to fill in those gaps that are left out in the LTPP proceeding?

MS. FOLEY GANNON: Right. In the -- as I'm sure you know they have several different proceedings going on in their long-term procurement planning now. They say in the proposed decision that the integration of renewables and intermittency issues will be addressed in that long-term procurement process.

As far as we aware at this time, I think it's in Phase 2 that that is supposed to be addressed and there is not a set schedule for when that will be heard so we are obviously monitoring that. We are hopeful that this decision may be revised to revisit some of that information in this decision because we think it would be appropriate for that to be considered. Again, we'll have to wait and see what the CPUC does later this month or going forward.
But we will be -- we are monitoring all of the long-term procurement planning as well and we think that that -- there may be -- the first phase is really not speaking to SDG&E but Phase 2 and 3 will be, and so we will be monitoring those as well.

ASSOCIATE MEMBER McALLISTER: Thank you.

HEARING OFFICER RENAUD: Okay, thank you. Let me check once again to see if any of the parties wish to address the Committee?

(No response.)

HEARING OFFICER RENAUD: Okay. Shortly we'll be going to public comment.

But before that let me just talk a little bit about the next steps. You can assume that some time in the next several weeks the Committee will issue a revised scheduling order. And it will very likely resemble, if not be exactly a copy of, the one produced by staff.

The staff proposed schedule calls for the Final Staff Assessment to be filed on March 22nd, 2013. In the normal course of events that would lead us to hold evidentiary hearings anywhere from four to six weeks after that so we'd be looking at April or May.

Intervenors in particular, and really those of you who are not represented by counsel, you might want to start thinking about your evidentiary presentations as early as
now. As a party you would have the opportunity to call
witnesses on your own behalf, on behalf of the entity that
you represent, to cross-examine the witnesses called by
other parties and to introduce documentary evidence.

Sometimes an intervenor will simply come in to the
evidentiary hearing with a cartload of papers and say, here,
this is the encyclopedia. There's probably stuff in there
that's relevant to this case, Committee, that's my evidence.

I can tell you right now that's not very
effective. What is very effective for the Committee is if
you can show us where in the encyclopedia is the material
that you feel is relevant and also tell the Committee why
you think it's relevant. And either do that yourself or do
that through a witness that you call. Your presentation
will be far more effective if you use a few key documents
rather than bringing in wheelbarrows full of paper.

I can also again recommend to you our Public
Adviser, Jennifer Jennings. She is a California-licensed
attorney. She can assist you intervenors in preparing your
presentations and help you make them as effective as
possible.

So we would appreciate that. All the parties
would appreciate that. Our time will be precious during
those hearings and it would be best if we can make the most
efficient use of that time. You'll be hearing these
admonitions again, including in writing later on but I thought I'd give you a little bit of a heads-up as to what to be thinking about in planning for your presentations. All right. It sounds like all the parties have said what they need to say or want to say so at this point I would ask for public comment. Is there anyone here in the room in Sacramento who wishes to make a public comment?

(No response.)

HEARING OFFICER RENAUD: Seeing none let me ask if there is anyone who is participating by phone or computer who would wish to make a public comment. Please go ahead.

MR. SALLIS: This is Gary Sallis, Local 230 Plumbers and Pipefitters.

HEARING OFFICER RENAUD: Good morning.

MR. SALLIS: Good morning. Local 230 has a membership of over 1700 members and we support the Quail Brush plant in total. With SONGS losing over 2200 megawatts during this last year and no one knows where that is still going to go, the possibility of Carlsbad coming down here by 2017, we're going to lose South Bay power plant in the next couple of years, they're supposed to start demo this 2013. Reliable energy is very, very important to San Diego. If it wasn't for the Sunrise Power Link this last year we would have been in major trouble. And we had a very mild summer, considering, you know. We could end up with a
Texas summer with 90 days over 100 degrees and the San Diego County area is going to be in a major problem.

So Local 230 and its 1700 members support this project totally. I am also a resident of Santee, which we have 75 members that live in Santee, and they are in total support of this. This power plant needs to come forward and be built, thank you.

HEARING OFFICER RENAUD: Okay, thank you for your comment. Does anyone else wish to make a public comment?

MR. CARROLL: Yes. My name is Kevin Carroll, I'm Executive Vice President of CONNECT. We're a membership organization comprised of innovation companies, over 180 members supporting an innovation economy.

And we are really concerned about the reliability issue. I think this summer we really dodged a bullet. And considering what happened with San Onofre, reliability is really an issue, especially with the innovation economy, with the life science companies. We are starting to see manufacturing come back to San Diego. As that comes back the reliability is really going to be a critical issue. So we would, we would advocate that this project is very much needed and the innovation economy is very much dependant on it.

HEARING OFFICER RENAUD: Okay, thank you for your comment. Any other public comment?
MS. MA: Yes, Pauline Ma with CleanTECH San Diego. CleanTECH San Diego, we are a private nonprofit and are an organization dedicated to positioning the region as a global leader in a clean energy economy.

And like Mr. Carroll said, we are concerned about the reliability of the grid. And Quail Brush will help stabilize the grid when intermittent available resources suddenly stop producing energy.

The facility will have quick start capability and be able to ramp up within ten minutes when the wind stops blowing and the sun stops shining.

With highly efficient technology it will be the first of its kind in San Diego and will help support the increased use of clean power.

And SDG&E currently provides about 20 percent of its power from renewable sources and is on track to deliver 36 percent by 2020, but wind and solar require a significant increase in renewable energy by 2015.

We generally support the use of wind and solar power but these resources generate electricity intermittently. In fact, the capacity factors for wind and solar range from approximately 22.5 percent to 36 percent.

So that's why we need reliable generation to help fill the gaps and keep the lights on when renewable energy is not available.
And although some people claim our rooftop solar can supply enough energy to make up for this deficit, solar rooftop cannot ensure reliability without backup from facilities like Quail Brush.

In the summertime SDG&E's peak demand currently occurs between 4:00 and 8:00 p.m. but rooftop solar production peaks between noon and 1:00 p.m. So that means solar is not always available when peak demand occurs.

Therefore, CleanTECH San Diego is in support of the Quail Brush project.

HEARING OFFICER RENAUD: Thank you for your comment, appreciate that. Any other comment?
(No response.)
HEARING OFFICER RENAUD: All right, hearing none --
MR. COUPENS: Yes, hello.
HEARING OFFICER RENAUD: Oh, go ahead.
MR. COUPENS: Yes, hi, my name is Brit Coupens, I'm a resident of San Diego. And I've had the opportunity to work on some developing in the county and I realize the difficulty in finding good places. I think just the infrastructure that's in place there allows them for this project to be a feasible and viable alternative to provide reliable energy for the county. The other people have made some pretty good claims.
I would just give a real world example. You know, it cost hundreds of millions of dollars to argue the necessity of the Sunrise Power Link and yet I think it's already demonstrating that it, in fact, was needed.

After the power outage last summer here I had the opportunity just to walk into Costco in my neighborhood and I was appalled to find that the refrigeration area was completely empty and I was asking why. And the gentleman told me that they had to basically dispose of everything and that that particular store lost over a million dollars in products just from that one outage. And that's just one store. Many businesses were impacted by that, whether they had perishable items or not. You know, they frequently had to send employees home and everything.

So I guess my point is that I think the costs of unreliability exceed the cost of building projects like Quail Brush and I'm very much in support, thank you.

HEARING OFFICER RENAUD: Thank you. And we didn't hear clearly the organization you were speaking for, would you repeat that again, please.

MR. COUPENS: I'm just a citizen of San Diego and I have had the opportunity to hear of this project, a little bit about it, and I'm just in support of it.

HEARING OFFICER RENAUD: Thank you, appreciate it, thanks very much.
MR. SOLORIO: Could we have that gentleman state his last name, I didn't get it.

THE REPORTER: Yes, spell it, please.

HEARING OFFICER RENAUD: Give us your name again, please.

MR. COUPENS: Certainly. The first name is Brit, B-R-I-T, the last name Coupens, C-O-U-P-E-N-S.

HEARING OFFICER RENAUD: Got it, thanks very much.

MR. COUPENS: You bet.

HEARING OFFICER RENAUD: Okay. Anyone else wish to make a public comment?

MR. ALEVY: Yes, if I could. My name is Scott Alevy, I'm President and CEO of the San Diego East County Chamber of Commerce.

We know there's a lot of people who do support this project, and that includes this particular chamber has taken an official position. We represent about 800 member businesses, which is about 20,000 employees. We are the largest business organization east of the city of San Diego. We need power to live, to work, to run our businesses, to serve our customers and so new generation is needed now. We need sustainability. I mean, like any major infrastructure project, this should be about the greater good, not NIMBY opposition.

I mean, anybody who is in New York has the ability
to take the subway or the metro in DC or freeways here in Southern California. It's inconvenient but it's a necessity. They need to keep energy affordable for businesses to even exist in a challenging economy.

I guess the question is, how do we as a state live up to mandated sustainability levels with roadblocks being thrown at so many levels? There needs to be a balance between the environment and lifestyle, the politics, the wildlife and business, people struggling to make a living.

So we urge you as a business organization with a whole lot of employees and a whole lot of companies. We urge you to think about small businesses and ensure that we have reliable energy so we can stay in business. Thanks.

HEARING OFFICER RENAUD: Thank you. Does anyone else wish to make a public comment?

(No response.)

HEARING OFFICER RENAUD: If you wish to make a public comment this is the time to speak up.

(No response.)

HEARING OFFICER RENAUD: All right, it sounds like we may be done with public comment then.

Let me turn to the Commissioners to see if you have any closing remarks before we adjourn. Commissioner Mcallister?

ASSOCIATE MEMBER McALLISTER: (Nodded).
HEARING OFFICER RENAUD: Okay. As I said earlier, the Committee will issue a revised schedule shortly and this status conference is adjourned. Thank you.

MS. FOLEY GANNON: Thank you.

MR. SOLORIO: Thank you.

(The Status Conference adjourned at 11:03 a.m.)

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CERTIFICATE OF REPORTER

I, JOHN COTA, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed.

I further certify that I am not of counsel or attorney for any of the parties to said conference, or in any way interested in the outcome of said conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of December, 2012.

__________________________________
JOHN COTA

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.

__________________________________
RAMONA COTA, CERT**478

December 17, 2012