ORIGINAL

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:	)	
	)	
Application for Certification	)	Docket No. 04-AFC-01
For the San Francisco	)	
Electric Reliability Project	)	

COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION FROM THE CITY AND COUNTY OF SAN FRANCISCO

DOCKET
04-AFC-1
DATE SEP 20 2006
RECD. SEP 25 2006

September 20, 2006

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I. Introduction.

The City and County of San Francisco (the City or CCSF) respectfully files these comments on the Presiding Member's Proposed Decision (PMPD). Overall, the City strongly supports the PMPD, which accurately summarizes the evidentiary record and properly concludes that, with the proposed conditions of certification, the San Francisco Electric Reliability Project (SFERP) will comply with all applicable laws, ordinances, regulations and standards (LORS) and will not result in any significant adverse impacts.

The City disagrees with the analysis in the PMPD as to one topic only: environmental justice. The PMPD concludes that the SFERP does not raise environmental justice concerns because, with the conditions of certification, there will be no significant impacts. The City agrees with the conclusion that the SFERP is not contrary to environmental justice, but not with the underlying rationale. In particular, the analysis in the PMPD gives no consideration to whether or not the SFERP provides a basis for the shut down of the Potrero Power Plant. However, a pivotal element of the environmental justice analysis is that 1) the SFERP has been sized and designed to provide sufficient reliability to enable the shut down of the Potrero Power Plant and 2) the City worked with the CAISO to confirm that the SFERP, along with other elements in the San Francisco Action Plan, will allow for termination of the Reliability Must Run (RMR) Agreement for the Potrero Power Plant. The City has in the past and would in the future strongly object on environmental justice grounds to the siting of fossil fueled generation in southeast San Francisco to the extent that generation does not provide the reliability basis to shut down the Potrero Power Plant.

In addition, the City strongly supports maintaining an exemption for equipment owned by Disadvantaged Business Enterprises from Tier 2 California Emission Standards

for Off-Road Compression-Ignition Engines. This exemption is important in order to maximize the ability of local disadvantaged firms to participate in the construction of the SFERP.

These comments also offer suggestions to further clarify the PMPD and to correct certain minor details. Since the SFERP is a facility of great interest to a wide audience, it would be helpful to provide some additional clarification and detail in order to ensure that lay members of the public who may not have had the opportunity to follow the evidentiary hearings closely can fully understand the state of the record and the California Energy Commission's (CEC or Commission) reasoning in concluding that the plant will not cause significant impacts and will comply with all relevant LORS.

II. The SFERP Furthers Environmental Justice Because It Will Facilitate the Closure of the Potrero Power Plant.

The PMPD provides that because the SFERP will not create any significant impacts, it will not disproportionately impact disadvantaged members of the community and does not give rise to any environmental justice concerns. The PMPD dismisses as irrelevant the role of the SFERP in facilitating the shut down of the Potrero Power Plant. Although the City agrees with the PMPD's ultimate conclusion that the SFERP is not contrary to environmental justice, the City respectfully disagrees with the underlying rationale.

The City has recognized that southeast San Francisco is a community of color, with relatively high rates of serious respiratory diseases, that has been disproportionately impacted by industrial facilities, including electric power generation. Exh. 15 at 4-2. Thus, as the City's environmental justice witness Ms. Eng explained, environmental justice considerations *are the reason for the City's development of SFERP*. 5/31/06 RT

(Eng) at 166:16-20. Four important factors support the conclusion that the SFERP will further environmental justice: 1) the SFERP will in conjunction with other projects displace the reliability need for the Potrero Power Plant; 2) the SFERP is part of a broader City effort to achieve closure of the Potrero Power Plant; 3) the plant developer, the City, is answerable to the community for continuing progress towards achieving plant closure; and 4) the impacts from the SFERP will be considerably less than those of the Potrero Power Plant.

A key objective in pursuing the SFERP is to displace the reliability-based need for the Potrero Power Plant. The SFERP has been sized and designed to eliminate the reliability-based need for the Potrero Power Plant. The CAISO has confirmed that construction of the plant, in combination with the development by the City of a combustion turbine at the San Francisco International Airport, will allow the CAISO to eliminate the RMR Agreement for the Potrero Power Plant. Exh. 50 at 3:18-20. This determination is important since it is the CAISO that must ultimately make the determination about whether or not to extend the annual RMR Agreement for additional years. Thus, even if additional steps are needed to actually achieve closure of the Potrero Power Plant, the SFERP significantly contributes to and sets the stage for such closure.

Moreover, the SFERP is part of a broader plan on the part of the City to achieve closure of the Potrero Power Plant. As noted above, the CAISO confirmed that the SFERP, along with a combustion turbine to be sited at San Francisco Airport, will allow for the release of Potrero Unit 3 from its RMR Agreement. Exh. 50 at 3: 18-19. With four additional transmission project, the RMR Agreement for Potrero Units 4, 5 and 6 can also be released. Exh. 50 at 3: 2-5; Exh. 15, Vol. 1, at 3-7. This in turn will eliminate a

significant source of revenue for continued operation of the units and will allow Mirant Potrero, LLC (Mirant) to shut down the units. Exh. 15 at 1.1. At the same time, the City remains in discussions with Mirant to seek an agreement for closure of the plant and continues to insist on aggressive enforcement of applicable environmental restrictions. 5/31/06 RT (Kubick) at 222: 9-21. Recently, the City, working with the community and environmental groups, persuaded the San Francisco Regional Water Quality Control Board (SFRWQCB) to limit the extension of the National Pollutant Discharge Elimination System Permit for Potrero Unit 3 to two and a half years. 5/31/06 RT (Eng) at 148: 13-25; id. (Kubick) at 222:13-18. After the two and a half years are over, Mirant will only be able to persist in the use of once-through cooling at Potrero Unit 3 if it can shown that there will be no significant adverse impacts to the Bay. Id.

A further important environmental justice consideration is the fact that the SFERP is being developed by the City which is answerable to the citizens of San Francisco. Thus, community members will have an avenue to continue to press for closure of the Potrero Power Plant and ultimately, to replace the decision-makers if those in office do not adequately address the community's concerns. Ms. Eng's testimony described how the City in the past has responded to community concerns and opposed the development of power plants that are not part of a plan to close down existing dirty in-City generation. 5/31/06 RT (Eng) at 146: 5-18.

Finally, the SFERP's impacts are significantly less than those of the Potrero Power Plant. PM_{10} emissions from the SFERP would be much lower than those from Potrero 3 because the SFERP is a much smaller plant and, as a peaking unit, could be expected to operate fewer hours of the year and at lower loads than Potrero 3. 5/31/06

RT (Rubenstein) at 29:11-25. Moreover, the SFERP will result in a 73% reduction in ozone precursor emissions and a 67% reduction in $PM_{10}/PM_{2.5}$ percursoer emissions. even when maximum allowable emissions from the SFERP are compared with average historical emissions from Potrero 3. Exh. 15, Vol. 1, 3-7 and 3-8; Exh. 15, Vol. 2. Appendix 8.1F, at F-14 to F-16; Exh. 48, revised Air Quality Table 3. Moreover when the SFERP's emissions are reviewed in the context of CCSF's objective of shutting down the entire Potrero Power Plant rather than just Potrero 3, the reductions are even more dramatic. Id.

Absent this context for the siting of the SFERP, environmental justice concerns would arise. This is because it would mean the addition of another fossil fueled power generating facility without any prospects for elimination of the Potrero Power Plant, in a community of color with relatively high rates of serious respiratory diseases that has already been disproportionately impacted by industrial development. The City has previously, and would in the future, strenuously object to the development of new fossil fueled generation within San Francisco that does not eliminate the reliability-based need for the Potrero Power Plant and that is not part of a broad plan to achieve the shut down of that plant. 5/31/06 RT (Eng) at 146: 5-18.

In sum, the SFERP supports environmental justice because the City is pursuing the SFERP as part of its broader plan for closure of old, dirty in-City generation.

Appendix A to these comments suggests changes to the PMPD to address this concern.

III. The Exemption for Disadvantaged Businesses Should be Maintained.

AQ-SC5 includes several requirements to control diesel construction-related emissions including a requirement that certain construction diesel engines meet, at a minimum, the Tier 2 California Emission Standards for Off-Road Compression-Ignition Engines. See PMPD at 116. AQ-SC5 provides that the CPM can grant relief from this requirement for equipment owned and/or operated by a Disadvantaged Business Enterprise certified by the San Francisco Human Rights Commission.

The PMPD raises questions about this possible exemption noting that it addresses social issues but not air quality issues. See PMPD at 107-8. The PMPD suggests that the exemption should be stricken but affords proponents of the exemption an opportunity to argue for it in their PMPD comments.

The exemption was incorporated by Commission staff at the City's request. The City is endeavoring to ensure that disadvantaged businesses and members of the community garner direct benefits from the construction of the SFERP by participating in the construction process. The City has a number of programs in place to train and use construction workers from the local community in the SFERP construction process. 5/31/06 RT (Kubick) at 156: 7-8. One is the first source hiring program that assists contractors and subscontractors to identify local construction resources. Id. at 156: 9-12. In addition, the City is coordinating with the building trades to better facilitate the hiring process. Id. 156: 20-25. Finally, the City has a 6 percent goal for the SFERP for use of Disadvantaged Business Enterprises. Id. 157: 1-2.

The City is concerned that the elimination of the Tier 2 exemption would make it more difficult for local disadvantaged businesses to participate in the construction process. Such businesses are less likely to have newer equipment that would meet the

Tier 2 standard. While the City recognizes the importance of minimizing diesel emissions, the City considers it appropriate to balance this consideration against the importance of giving local disadvantaged businesses a realistic opportunity to benefit by taking part in project construction.

Moreover, it is important to note that the public health risk from diesel emissions during construction is conservatively estimated to be associated with an increased lifetime cancer risk of between 0.75 and 1.1 in one million at the point of maximum impact which is located at the facility fence line. Exh. 15, Volume 2, 8.1-D-7. This is well below the 10 in one million level considered by the CEC and BAAQMD staffs to be significant. Id. These calculations do not reflect several mitigation measures included in the FSA and accepted by the City that were formulated after the public health assessment was undertaken, including the requirement to use ultra low sulfur diesel fuel and the Tier 2 or Tier 1 California Emission Standards for Off-Road Compression-Ignition Engines or the installation of an oxidation catalyst and soot filter on diesel equipment. Exh. 46 at 4.7-11. While the City strongly supports minimizing all public health risks, it considers that in these circumstances, social considerations can and should also be taken into account. Accordingly, the City urges the Commission to maintain the exemption.

Appendix A to these comments suggests changes to the PMPD to address this concern.

IV. The Proposed Decision Would Benefit from a Number of Clarifications.

Aside from the issues discussed above, the City agrees with and supports the remainder of the PMPD, which is well reasoned and amply supported by the record. Nonetheless, because the SFERP is a facility of great interest to a wide audience, it would

be helpful to provide some additional clarification and detail in order to ensure a clear understanding of the Commission's reasoning by interested members of the public. In particular, it would be helpful to clarify:

- That the City's objective in pursuing the SFERP to displace the reliability-based need for the Potrero Power Plant;
- That the need for the SFERP has been assessed by the CAISO as a component of a plan to close down the Potrero Power Plant; and
- The magnitude and source of mitigation for nitrogen deposition on San Bruno Mountain.

A. The SFERP's Ability to Displace the Reliability-Based Need for the Potrero Power Plant is Relevant to An Analysis Under the California Environmental Quality Act.

In the section entitled Project Ownership and Objectives, the PMPD discusses the impact of the SFERP on the continued operation of the Potrero Power Plant. The PMPD provides that it is necessary to understand two things as a basis for the Commission's reasoning: 1) the Commission no longer has a responsibility to undertake a needs assessment and 2) certification of the SFERP does not necessarily result in the closure of the existing Potrero units. PMPD at 14-15. The PMPD goes on to suggest that the closure of the Potrero Power Plant is irrelevant since the SFERP will fully mitigate its impacts. The PMPD mentions, but does not stress, the City's objective in pursuing the SFERP to displace the reliability need for the Potrero Power Plant. The objective of replacing the reliability-based need for the Potrero Power Plant is, however, an essential component of an assessment of the SFERP under the California Environmental Quality Act (CEQA). Cal. Public Resources Code § 21000 et. seq.

CEQA requires project proponents to examine alternatives to a proposed project, but alternatives may be eliminated from detailed consideration if they fail to meet most of the basic project objectives. 14 Cal. Code Regs. (CEQA Guidelines) § 15126.6(c)(i). The City has clearly stated throughout this proceeding that its basic objective in pursuing the SFERP is to eliminate the need for existing unreliable and highly-polluting in-City generation while maintaining the reliability of the electric system. Exh. 15 at 1.1. Thus, any alternative that is not part of a comprehensive plan to displace the reliability need for the Potrero Power Plant fails to meet this key and overriding objective of the City in pursuing the project. In fact, the analysis of alternatives in the PMPD acknowledges as a flaw of some of the alternatives discussed in the Final Staff Assessment (FSA) that they would not make closing aging in-City generation potentially possible. PMPD at 21-22.

The section on Project Ownership and Objectives of the PMPD focuses only on whether or not the SFERP *alone* will guarantee the closure of the Potrero Power Plant. The City agrees with the discussion in the PMPD which concludes that for purposes of CEC licensing of the SFERP, it is not necessary to show that the SFERP will *guarantee* the closure of the Potrero Power Plant. However, it is important to be clear that the City's *objective* in pursuing the SFERP is to displace the reliability need for the Potrero Power Plant.

In order to provide for the closure of the Potrero Power Plant, the City must ensure that the grid can operate reliably without the Potrero Power Plant; the SFERP is one of the key components of achieving that objective. Without displacing the reliability need for the Potrero Power Plant, it would be both nearly impossible and adverse to electric reliability in San Francisco to close down the Potrero Power Plant. Thus,

displacing the reliability-based need for the Potrero Power Plant is of itself an important City objective under CEQA. For clarity, it would be helpful to have this objective more clearly acknowledged.

Appendix A to these comments suggests changes to the PMPD to address this concern.

B. The SFERP is needed to Maintain Grid Reliability in the Event that the Potrero Plant Closes Down.

Section E of the PMPD on Local System Effects (LSE) describes the grid reliability need for the SFERP. The section acknowledges that SFERP is a key component in facilitating the release of Potrero Unit 3 from its RMR agreement and potentially ending the need for similar contracts with Potrero Units 4, 5 and 6. PMPD at 92. In other passages, however, the PMPD could be interpreted, absent careful reading, to imply that additional generation is needed within the City *absent* the closure of units at the Potrero Power Plant. For example, the LSE section provides, at page 92, that "[t]he CAISO has determined that generation located within San Francisco is critical to the long-term ability to serve load in the Peninsula Area (Ex. 50, p.3), and that at least three combustion turbines must be located north of the Martin substation in order to provide electrical reliability essential for the City of San Francisco. (5/1/06 RT 25:5-10.)"

The CAISO testimony about the location of three combustion turbines was in the context of the San Francisco Action Plan and eliminating the need for the Potrero Power Plant RMR agreement. Thus, to avoid confusion, the language should be revised to state "[t]he CAISO has determined that generation located within San Francisco is critical to the long-term ability to serve load in the Peninsula Area (Ex. 50, p.3), and that, in order to eliminate the reliability-based need for the Potrero Power Plant, at least three

combustion turbines must be located north of the Martin substation in order to provide electrical reliability essential for the City of San Francisco. (5/1/06 RT 25:5-10.)"

Similarly, it would be helpful to clarify the findings of fact to place the CAISO's testimony in its proper context. In particular, finding of fact 2 should be amended to state: "2. Generation must be located north of the Martin Substation in order to provide San Francisco with essential electrical reliability. The CAISO has determined that in order to eliminate the reliability-based need for the Potrero Power Plant, at least three combustion turbines must be located north of the Martin substation."

In addition, the PMPD discusses potential reductions in line losses from the construction of the SFERP in the discussion and in the findings of fact. However, the FSA was clear that if Potrero Unit 3 shuts down after the SFERP commences operation there may actually be a slight increase in system losses as the Potrero Unit 3 is slightly larger than the generation that will be added to displace it. See Exh. 46 at 5.6-7. As it is the City's objective in siting the SFERP to achieve closure of the Potrero Power Plant, it is incongruous to identify a reduction in line losses as a benefit of the project and references to this benefit should be deleted.

Appendix A to these comments suggests changes to the PMPD to address this concern.

C. The SFERP Will Not Contribute to a Significant Adverse Cumulative Impact at San Bruno Mountain.

The PMPD correctly determines that the SFERP will not result in any significant cumulative impact to biological resources. The PMPD properly notes that the City's purchase of NOx ERCs exceeds project NOx emissions. PMPD at 185. The PMPD also

properly notes that, in all scenarios assessed, total nitrogen emissions (including both ammonia- and NOx-based nitrogen) from in-City generation will be reduced significantly, id., illustrating the success of the Bay Area Air Quality Management District's (BAAQMD) programmatic approach to address NOx emissions. To further clarify the Commission's reasoning, however, it may be appropriate to add some additional detail to the PMPD to ensure that all readers fully understand the degree to which tons of nitrogen emissions will be reduced in any scenario involving the SFERP and how these reductions will be obtained.

The PMPD properly notes that nitrogen deposition from the SFERP itself is miniscule: .0059 kilograms per hectare per year, as compared with the current background level of 6.17 kilograms per hectare per year. Exh. 15 at 8.2C-4. Moreover, the estimate of nitrogen deposition from the SFERP is conservatively high since it does not take into account the NOx emission credits being surrendered. Id. According to the FSA, the threshold of annual nitrogen deposition rates that can potentially influence ecosystem change to herbaceous plant communities is approximately five to six kilograms per hectare per year. Exh. 46 at 4.2-11. Since nitrogen deposition from the SFERP is well below this threshold, the SFERP will not individually cause a significant impact on San Bruno Mountain.

However, because background levels of nitrogen deposition on San Bruno Mountain may already exceed the threshold for an impact on herbaceous plants[1], both the FSA and the PMPD raise the concern about a potential cumulative impact. The PMPD properly concludes that any contribution by the SFERP to this potential cumulative

[1] The calculation of the existing nitrogen deposition on San Bruno Mountain of 6.17 kilograms per hectare per year is also probably conservatively high. See Exh. 15, Volume 2, at 8.2C-2.

impact is mitigated to a less than significant level because the SFERP is participating in the programmatic solution to regional NOx and ozone conditions through the procurement of NOx ERCs. PMPD at 185. Because it is the regional NOx and ozone conditions that give rise to the concern about nitrogen deposition at San Bruno Mountain, see Exh. 15, Vol. 2, at 8.2C-2, the SFERPs participation in the programmatic solution to the regional NOx/ozone conditions is an appropriate and effective way to mitigate to a less than significant level, the SFERP's contribution to this impact. Moreover, the evidence shows that the programmatic approach is resulting in a substantial reduction in nitrogen emissions. See Exh. 15, Vol. 2 at Table 8.2C-4.

Nitrogen deposition from the SFERP (and from other power plants) results from two kinds of emissions: NOx emissions and ammonia slip. Exh. 15 Table 8.2C-4. In modeling the deposition on San Bruno Mountain, the City's experts conservatively overestimated the amount of nitrogen that would be produced from these two emission sources. In either case, only a fraction of the total tons of emissions will result in the atmospheric deposition of nitrogen. Exh. 15, Vol. 2 at 8.2C-3. The City estimated that the SFERP would deposit a total of 44.4 tons per year of nitrogen. Id. at Table 8.2C-4. This 44.4 ton total is comprised of 12.1 tons per year derived from the SFERP's 39.8 tons of NOx emissions per year and 32.3 tons per year derived from the SFERP's ammonia emissions of 39.2 tons per year. Id. The 47.5 tons of NOx ERCs were calculated to reduce the 44.4 tons total of nitrogen by 14.5 tons. Id.

The remaining 29.9 tons of nitrogen from the City's ammonia emissions are offset by the BAAQMD's programmatic approach to address NOx and ozone emissions in the Bay Area. In addition to requiring the use of Best Available Control Technology and

NOx offsets by new facilities, the BAAQMDs rules also require existing facilities to reduce their NOx emissions. The benefits of these reductions significantly outweigh any increases in nitrogen from ammonia slip from the SFERP or other power plants, such as the Potrero Power Plant, which have had to install select catalytic reduction equipment (SCR) to achieve NOx limits. See. e.g. Exh. 15, Vol. 2 at 8.2C-5.

The City's analysis of the cumulative trend of nitrogen from the in-City generation illustrates this point. Even if the Hunters Point Power Plant had continued to operate, because of the NOx reductions from the application of the NOx regulatory limits on the Hunters Point and Potrero Power Plants, there would be a net decrease in nitrogen emissions of 52.5 tons per year. Exh. 15, Vol. 2, Table 8.2C-4. In fact, however, the Hunters Point Power Plant has closed down; thus, total nitrogen from in-City generation will be reduced by 85.8 tons per year. Id. Once the Potrero Power Plant is closed the reductions will total 169.3 tons per year. Id.

Mr. Sarvey has objected to consideration of these trends, arguing that construction of the SFERP is unrelated to the closure of the old in-City generating units. Mr. Sarvey's argument ignores two facts. First, as the PMPD notes, in all scenarios, nitrogen emissions will be reduced as a result of the BAAQMD's programmatic approach to address NOx emissions, with which the SFERP is complying fully. Exh. 15, Vol. 2, Table 8-2C-4; Exh. 54. Second, the concern about deposition on San Bruno Mountain arises from cumulative impacts; the impacts of the SFERP alone are indisputably insignificant.

Since the issue is one of cumulative impact, the SFERP can show that its contribution is not cumulatively considerable because it is complying with the applicable

requirements of BAAQMD's program to address the NOx emissions that are the source of the cumulative impact at San Bruno Mountain. 14 Cal. Code Regs. (CEQA Guidelines) § 15130(a)(3). CEQA caselaw supports reliance on environmental laws and regulatory programs as mitigation of environmental impacts. See e.g. *Sundstrom v. County of Medocino* (1988) 202 Cal.App.3d, 296, 308; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App. 3d 1337, 1355. The data provided by the City regarding the cumulative impacts from in-City generation is relevant to show that the BAAQMD's approach is resulting in significant reductions in the tons of nitrogen deposited on San Bruno Mountain per year.

Moreover, it is worth noting that approval of the SFERP, along with other projects, will displace the reliability need for the Potrero Power Plant and establish the basis for closure of the plant. Closure of the Potrero Power Plant will further reduce cumulative nitrogen emissions.

In addition, the City notes that there is a minor error in the PMPD which originated in the City's filing, Appendix A (Exhibit 15), and was picked up in the FSA.[2] Appendix A, at page 8.2-19 correctly states that background nitrogen deposition rates at San Bruno Mountain are estimated to be approximately 6.169 kilograms per hectare per year. In the same passage, the correct amount is provided for the estimated annual average nitrogen deposition from the SFERP of 0.0059 kilograms per hectare per year. These figures are followed by the sentence "This amounts to a 0.0009 percent increase from ambient levels for a total of approximately 6.175 kilograms per hectare per year." The figure for the total deposition including both the SFERP and the background

[2] The City did not notice the error until the review of the PMPD but now that the error has been discovered it is appropriate to correct it.

concentrations is correct. However, 0.0059 is a 0.09 percent increase from ambient levels, and not a 0.0009 percent increase. The error resulted from the conversion to percentages from the fraction. However, the error is not material to the discussion because the actual figures are correct and the reasoning from the PMPD still holds. That is, the SFERP's contribution to cumulative impacts is rendered less than cumulatively considerable because the SFERP is procuring its required share of NOx ERCs and the BAAQMD's program to address NOx is indeed resulting in reduced tons of nitrogen emissions that may be deposited on San Bruno Mountain.

Appendix A to these comments suggests changes to the PMPD to address this concern.

V. The PMPD Would Benefit from a Number of Minor Corrections.

In addition to the clarifications described above, the PMPD would benefit from a number of minor corrections and clarifications, as set forth below.

SUMMARY OF THE DECISION

Page 2, 2nd full paragraph: The recycled water description still contains elements of the approach proposed before Supplement B was filed on January 11, 2006 (Exhibit 16). The description should be revised as follows: "Process water will be delivered from ~~a water pump station located on Marin Street near Cesar Chavez Street~~ outfall manhole number 2 near Illinois Street and Islais Creek to a new water treatment plant located on the project site. A pipeline approximately ~~0.76 of a mile long will connect the pump station~~ 2,600 feet long will connect the manhole and the on-site treatment plant . . . ."

PROJECT DESCRIPTION AND PURPOSE

Page 8, 3rd full paragraph. Operation of the SFERP is now anticipated in summer 2008 not late 2007. See 4/27/06 RT (Flynn) at 30: 1-4.

FACILITY DESIGN

Pages 56 and 57, Facility Design Table 2: Major Structures and Equipment List. This table contains a number of components that are no longer part of the project or have been replaced because of the change in source for process water described in Supplement B (Exhibit 16) as follows:

- Page 56, delete "EDI train & feed pumps", replace with "DI mixed bed vessel foundation and connections".
- Page 56, delete "Equalization tank structure & Bio Reactor structure, etc."
- Page 57, delete "Supplemental Aeration Blowers Foundation and Connections"
- Page 57, delete "Membrane Air Scour Blowers Foundation and Connections"
- Page 57, delete "Drain Pump Foundation and Connections"
- Page 57, delete "Permeate Pumps Foundation and Connections"
- Page 57, delete "Mixed Liquor Recirculation Pumps Foundation and Connections"
- Page 57, delete "CIP/Backpulse Pumps Foundation and Connections"
- Page 57, delete "CIP/Backpulse Tank, Structure, Foundation and Connections"
- Page 57, delete "DIP Tank Recirdulation/Drain Pumps Foundation and Connections"
- Page 57, delete "DIP Tank Structure, Foundation and Connections"
- Page 57, delete "Membrane Tanks Structure, Foundations Connections"
- Page 57, delete "Feed Channel Structure, Foundation and Connections"
- Page 57, delete "Combined Inlet System Structure, Foundations and Connections"

POWER PLANT EFFICIENCY

Page 73, 4th full paragraph. The PG&E pipeline that will supply natural gas to the project is 132 not 101. PG&E pipeline 101 was the pipeline tapped when the proposed site was adjacent to the Potrero Power Plant. Unfortunately, the wrong reference was carried over into Supplement A. This is immaterial since the pipeline route is otherwise accurately described and since PG&E pipeline 132, like PG&E pipeline 101, is one of

three supply lines to PG&E's San Francisco Load Center located adjacent to PG&E's Potrero Substation. Exh. 46 at 5.4-4.

Page 77, 1st full paragraph., 4th and 5th sentences. The statement that the SFERP will interconnect with PG&E's pipeline header is also a hold over from the proposed site adjacent to the Potrero Power Plant. The interconnection for the current proposed site is at the interconnection of 25th Street and Illinois. Exh. 15 at 6-1. This location is near but not at the PG&E pipeline header, see Exh. 15, figure 1-2, and does assure that in most circumstances, the project can be supplied by any one of three natural gas pipelines. Thus, the following minor corrections should be made "To further enhance reliability, the project will interconnect with PG&E's system near ~~at~~ a natural gas pipeline header. This enables the project to be supplied by any one of three natural gas pipelines in most circumstances."

TRANSMISSION SYSTEM ENGINEERING

Page 87-90, TSE-5, TSE-6 and TSE-8. There are references to CPUC General Order 98128. These references are incorrect and should be changed to CPUC General Order 128.

AIR QUALITY

Page 105, first full paragraph and footnote 21. This passage discusses CO and SO_2 emissions. The PMPD properly notes that the project's CO and SO_2 emissions are below the level which would require offsets under District Rules. See Exh. 15, Vol. 1, at 8.1-50-51. The PMPD explains that emissions are below a 100 tons per year threshold. It would be helpful to add that emissions of these substances does not interfere with the attainment or maintenance of the applicable ambient air quality standards. Id. Further, footnote 21 notes that intervenor Sarvey continues to contend that SO_2 emissions remain unmitigated. It is worth noting that the enhanced street cleaning program proposed by the City to mitigate PM_{10} will produce reductions of 24 tons per year of PM_{10} as

compared with the projects emissions of 15 tons per year. 5/31/06 RT (Rubenstein) at 28: 16-19. The excess 9 tons per year in PM_{10} reductions more than offset 2.7 tons of SO_2 even using the 3:1 factor used to address $PM_{2.5}$ in AQ-SC12.

Page 111, Findings and Conclusions 8, Second sentence. The sentence provides "However, the required mitigation (in the form of PM_{10} emission reduction credits) will mitigate the project's impacts to a level that is less than significant." However, as the discussion in the PMPD describes, the City is proposing to mitigate the PM_{10} impacts through an enhanced street sweeping program rather than through the use of emission reduction credits. Thus the sentence should be revised to state "However, the required mitigation (in the form of an enhanced street sweeping program) will mitigate the project's impacts to a level that is less than significant."

WASTE

Page 170-1. Waste-2 provides that "if, in the opinion of the Registered Professional Engineer or Geologist, significant remediation may be required, the project owner shall contact representatives of the San Francisco Department of Public Health (SFDPH) the San Francisco Fire Department, and the Berkeley Office of the Office of Department of Toxic Substances Control (DTSC) for guidance and possible oversight." This condition was written before the revised conditions of certification were prepared to address existing on-site contamination. Since that time, the City and CEC staff have recognized the role of the SFRWQCB as the administering agency to address such contamination. Consistent with that role, DTSC should be replaced with SFRWQCB in this condition.

WORKER SAFETY AND FIRE PROTECTION

Page 179; Findings and Conclusions 8. The finding provides that implementation of the conditions of certification and the mitigation measures described in the evidentiary record will ensure that the project conforms with all applicable laws, ordinances regulations and standards ...." It is the City's understanding that all relevant mitigation measures relied upon for the conclusion are in fact incorporated into conditions of certification. A clarification to this effect would be helpful.

SOIL AND WATER

Page 227, Regulatory Jurisdiction. It would be helpful to add to this section a reference to Article 22A of the San Francisco Public Health Code. The following could be added:

> Finally, the San Francisco Department of Public Health (SFDPH) oversees compliance with Article 22A of the San Francisco Public Health Code (the Maher Ordinance) which requires analysis and mitigation if hazardous wastes are present in soil at locations in the City known to contain historic fill, including the SFERP site. Exh. 88 at 6.

Page 230 provides as the top of the page that "soils materials impacted by heavy metals, polynuclear aromatic hydrocarbons and residues from a former manufactured gas plant will likely be encountered during drilling and excavation activities." The reference to "residues from a former manufactured gas plant" should be deleted. It is a carryover from the initial site proposed for the SFERP adjacent to the Potrero Power Plant. At the current proposed site there is no evidence of former use as a manufactured gas plant. Exh. 88 at 3.

Page 232, first full paragraph. The last sentence indicates "Conditions of Certification will require additional data." This sentence should be deleted. Draft conditions of certification in the Preliminary Staff Assessment and the FSA required the City to undertake additional site characterization. However, the City undertook additional soil characterization activities before the evidentiary hearings and served a draft summary report on the service list on March 30, 2006, in advance of the May 1 deadline for testimony regarding on-site contamination. Exh. 42. Accordingly, the draft condition of certification requiring further site characterization was withdrawn by staff. Exh. 47 at 1. This comment also applies to page 238, third line. A more accurate description would be to state: "On the contrary, it appears that the City has cooperated with Staff in undertaking additional activities to accurately characterize the project site, and reaching agreement on a set of conditions that will ~~accurately characterize the project site and~~ provide for appropriate remediation of ~~any~~ the contamination which ~~is~~ has been found.

Page 234. Point 6. The Conditions of Certification only require verification sampling analysis if required by the SFRWQCB and the SFDPH. Thus, this point should

be revised to state. "6. Certification Report. This is required by the City's Maher Ordinance, often referred to as Article 22A; it will include ~~requires~~ the results of the verification sampling analysis if required by the SFRWQCB and the SFDPH.

Page 234. Last two sentences. The language suggests that the health based standards apply only to construction and remediation activities. However, the standards also apply after construction. Condition of Certification Soil and Water 13 provides that the health based standards must be achieved in combination by the Site Cleanup Plan, the (Revised) Risk Management Plan and the Site Management Plan. The Site Management Plan in particular governs long-term management of the site. The language should be revised to reflect the fact that the health based standards are applicable during and after construction as well as for any required remediation activities.

VI. Conclusion.

The PMPD accurately concludes that the SFERP will not result in significant environmental impacts and will comply with all applicable LORS.

Dated: September 20, 2006

Respectfully submitted:

DENNIS J. HERRERA
CITY ATTORNEY
THERESA L. MUELLER
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APPENDIX A: COMPILATION OF PROPOSED CHANGES TO THE PMPD

Proposed changes to address Section II: The SFERP Furthers Environmental Justice Because It Will Facilitate the Closure of the Potrero Power Plant:

The following language in the PMPD be replaced: Page 303, third full paragraph beginning "Overall, and as noted by ...." through Page 305, portion of a sentence beginning with "difficult to fathom" and ending with "disproportionately affect anyone." That discussion should be replaced with the following:

> The City has recognized that southeast San Francisco is a community of color, with relatively high rates of serious respiratory diseases, that has been disproportionately impacted by industrial facilities, including electric power generation. Exh. 15 at 4-2. Thus, as the City's environmental justice witness Ms. Eng explained, environmental justice considerations *are the reason for the City's development of SFERP*. 5/31/06 RT (Eng) at 166:16-20.
>
> Four important factors support the conclusion that the SFERP will further environmental justice: 1) the SFERP will in conjunction with other projects displace the reliability need for the Potrero Power Plant; 2) the SFERP is part of a broader City effort to achieve closure of the Potrero Power Plant; 3) the plant developer, the City, is answerable to the community for continuing progress towards achieving plant closure; and 4) the impacts from the SFERP will be considerably less than those of the Potrero Power Plant.
>
> A key objective in pursuing the SFERP is to displace the reliability-based need for the Potrero Power Plant. The SFERP has been sized and designed to eliminate the reliability-based need for the Potrero Power Plant. The CAISO has

confirmed that construction of the plant, in combination with the development by the City of a combustion turbine at the San Francisco International Airport, will allow the CAISO to eliminate the RMR Agreement for the Potrero Power Plant. Exh. 50 at 3:18-20. This determination is important since it is the CAISO that must ultimately make the determination about whether or not to extend the annual RMR Agreement for additional years. Thus, even if additional steps are needed to actually achieve closure of the Potrero Power Plant, the SFERP significantly contributes to and sets the stage for such closure.

Moreover, the SFERP is part of a broader plan on the part of the City to achieve closure of the Potrero Power Plant. As noted above, the CAISO confirmed that the SFERP, along with a combustion turbine to be sited at San Francisco Airport, will allow for the release of Potrero Unit 3 from its RMR Agreement. Exh. 50 at 3: 18-19. With four additional transmission project, the RMR Agreement for Potrero Units 4, 5 and 6 can also be released. Exh. 50 at 3: 2-5; Exh. 15, Vol. 1, at 3-7. This in turn will eliminate a significant source of revenue for continued operation of the units and will allow Mirant Potrero, LLC (Mirant) to shut down the units. Exh. 15 at 1.1. At the same time, the City remains in discussions with Mirant to seek an agreement for closure of the plant and continues to insist on aggressive enforcement of applicable environmental restrictions. 5/31/06 RT (Kubick) at 222: 9-21. Recently, the City, working with the community and environmental groups, persuaded the San Francisco Regional Water Quality Control Board (SFRWQCB) to limit the extension of the National Pollutant Discharge Elimination System Permit for Potrero Unit 3 to two and a

half years. 5/31/06 RT (Eng) at 148: 13-25; id. (Kubick) at 222:13-18. After the two and a half years are over, Mirant will only be able to persist in the use of once-through cooling at Potrero Unit 3 if it can shown that there will be no significant adverse impacts to the Bay. Id.

A further important environmental justice consideration is the fact that the SFERP is being developed by the City which is answerable to the citizens of San Francisco. Thus, community members will have an avenue to continue to press for closure of the Potrero Power Plant and ultimately, to replace the decision-makers if those in office do not adequately address the community's concerns. Ms. Eng's testimony described how the City in the past has responded to community concerns and opposed the development of power plants that are not part of a plan to close down existing dirty in-City generation. 5/31/06 RT (Eng) at 146: 5-18.

Finally, the SFERP's impacts are significantly less than those of the Potrero Power Plant. PM_{10} emissions from the SFERP would be much lower than those from Potrero 3 because the SFERP is a much smaller plant and, as a peaking unit, could be expected to operate fewer hours of the year and at lower loads than Potrero 3. 5/31/06 RT (Rubenstein) at 29:11-25. Moreover, the SFERP will result in a 73% reduction in ozone precursor emissions and a 67% reduction in $PM_{10}/PM_{2.5}$ percursoer emissions, even when maximum allowable emissions from the SFERP are compared with average historical emissions from Potrero 3. Exh. 15, Vol. 1, 3-7 and 3-8; Exh. 15, Vol. 2, Appendix 8.1F, at F-14 to F-16; Exh. 48, revised Air Quality Table 3. Moreover when the SFERP's emissions are reviewed

in the context of CCSF's objective of shutting down the entire Potrero Power Plant rather than just Potrero 3, the reductions are even more dramatic. Id.

In addition, the following findings and conclusions should be added:

10. The SFERP has been sized and designed to eliminate the reliability need for the Potrero Power Plant and the CAISO has testified that in combination with a combustion turbine at the San Francisco International Airport and four additional transmission projects, the SFERP will allow for the release of the Potrero Power Plant from its RMR Agreement.

11. The SFERP is part of a broader City plan to accomplish the closure of Potrero Power Plant that includes negotiations with Mirant and insisting on aggressive environmental enforcement. The City, as a public entity, is answerable to its citizens for the ultimate success of this plan.

12. The SFERP is cleaner than the Potrero Power Plant.

Proposed changes to address Section III: The Exemption for Disadvantaged Businesses Should be Maintained:

The following language in the PMPD be replaced: Page 108, first full paragraph last sentence beginning "We are puzzled ...." through Page 108, end of the 3rd full paragraph. That discussion should be replaced with the following:

An additional exemption provides that the CPM may grant relief from the Tier 2 requirement for construction of diesel engines, which hava a rating of 100 hp or more if they are owned and/or operated by a Disadvantaged Business

Enterprise certified by the San Francisco Human Rights Commission. The exemption was requested by the City as part of its efforts to ensure that disadvantaged businesses and members of the community garner direct benefits from the construction of the SFERP by participating in the construction process. Because even without use of the Tier 2 requirement, the public health risk from diesel emissions during construction is below the level considered to be significant, and because the exemption furthers the important goal of giving local disadvantaged businesses a realistic opportunity to benefit by taking part in project construction, it is appropriate.

Proposed changes to address Section VI. A: The SFERP's Ability to Displace the Reliability-Based Need for the Potrero Power Plant is Relevant to An Analysis Under the California Environmental Quality Act:

The following language in the PMPD be replaced: Page 15, first full paragraph beginning with "Second, and as also discussed in other portions of this Decision" through Page 15, 3rd full paragraph beginning "The evidence of record establishes . . ." That discussion should be replaced with the following:

> Second, it is not necessary for us to conclude at this time that the SFERP alone will result in the closure of existing Potrero units. What is important is that the SFERP, in combination with other facilities, will eliminate the reliability based need for the Potrero Power Plant thus paving the way for the closure of the plant. Without displacing the reliability based need for the Potrero Power Plant it would be both difficult and detrimental to electric reliability in San Francisco to

close down the Potrero Power Plant. Moreover, it is important that the City has a plan to achieve closure of the Potrero Power Plant, that it is answerable to its citizens for the success of this endeavor, and that, in the meantime, it is proposing to fully mitigate all impacts of the SFERP with or without the continued generation at the Potrero site.

The evidence in the record establishes that generation is needed north of the Martin Substation in order to displace the reliability need for the Potrero Power Plant. No evidence of record credibly challenges this fact.

Proposed changes to address Section VI. B: The SFERP is Needed to Maintain Grid Reliability in the Event that the Potrero Power Plant Closes Down:

The language on page 92, 1st full paragraph third sentence should be revised to state "[t]he CAISO has determined that generation located within San Francisco is critical to the long-term ability to serve load in the Peninsula Area (Ex. 50, p.3), and that, in order to eliminate the reliability-based need for the Potrero Power Plant, at least three combustion turbines must be located north of the Martin substation in order to provide electrical reliability essential for the City of San Francisco. (5/1/06 RT 25:5-10.)" Also, on page 94, finding and conclusion 2 should be amended to state: "2. Generation must be located north of the Martin Substation in order to provide San Francisco with essential electrical reliability. The CAISO has determined that in order to eliminate the reliability-based need for the Potrero Power Plant, at least three combustion turbines must be located north of the Martin substation."

Finally, at the top of page 93, the following sentence should be added. "However, these savings will be eliminated once the Potrero Power Plant ceases to operate." Similarly, on page 94, the following sentence should be added to finding and conclusion 6: "However, these reductions will be eliminated once the Potrero Power Plant ceases to operate."

Proposed changes to address Section VI. C: The SFERP Will Not Contribute to a Significant Adverse Cumulative Impact on San Bruno Mountain:

The following changes should be made in the PMPD at pages 184-186, and the findings and conclusions at pages 188-189.

> Nitrogen Deposition. Serpentine soils in the San Francisco Bay Area, including those on nearby San Bruno Mountain, support native grassland plant communities that sometimes provide habitat for rare and endangered species. Serpentine-adapted natives can thrive in soils that are deficient in nitrogen, potassium, phosphorus, and other nutrients, offering a competitive advantage over the faster growing non-native annual species that have overtaken most of California's grasslands.
>
> However, when nitrogen deposition from air pollution fertilizes these serpentine plant communities, nitrogen can cease to be a limiting nutrient for plant growth. Then, non-native annual grasses may surpass the native species, threatening the biodiversity of these unique native plant communities. Furthermore, nitrogen deposition from air pollution can change serpentine plant community composition thus causing adverse effects to several threatened or endangered butterfly species that rely upon these native serpentine plants for food. (Ex. 46, p. 4.2-11.)
>
> Nitrogen deposition on San Bruno Mountain currently exceeds acceptable levels. (5/31/06 RT 124.) The SFERP will create further nitrogen emissions, from NOx

and ammonia slip emissions, resulting in increased deposition of 0.0059 kilograms per hectacre per year, or a 0.~~00~~09 percent increase over existing ambient levels. (5/31/06 RT 124; Ex. 46, p. 4.2-12.) While this small percentage increase may be viewed as individually insignificant, it does contribute to the cumulative nitrogen deposition impacts. (5/31/06 RT 124 – 25; Ex. 46. p. 4.2-13.)

The evidence establishes that the Applicant's purchase of 47.5 tons per year of oxides of nitrogen (NOx) emission reduction credits (ERC) from the nearby Potrero power plant will more than offset the nitrogen resulting from SFERP's 39.8 tons per year of NOx ~~nitrogen~~ emissions. (See Condition **AQ-38**.) The evidence also establishes that application of BAAQMD NOx regulatory limits on existing in-City generation is significantly reducing nitrogen deposition on San Bruno Mountain notwithstanding increased ammonia emissions resulting from the use of selective catalytic reduction (SCR) systems to achieve these limits. (See Exh. 15, Vol. 2 at 8.2C-5 and Table 8.2C-4.) In combination, these reductions~~this~~ will reduce the level of overall nitrogen emissions in the San Bruno Mountain area, thus mitigating any contribution by the SFERP to adverse impacts due to nitrogen deposition. (5/31/06 RT 124-25; Ex. 46, pp. 4.2-13, 4.2-15 to 16.)

Intervenor Sarvey maintains, without benefit of persuasive evidentiary support, that the required measures are insufficient to mitigate the adverse effects of ammonia emissions on San Bruno Mountain. (Opening Brief, pp. 7-8; Reply Brief, pp. 8-9; July 21, 2006 Reply to Staff Late Filing, pp. 22-24.) In his view, the SFERP will contribute to an existing significant adverse cumulative impact.

As noted by Applicant and Staff, however, mitigation in the form of the surrender of ERCs is an approved programmatic method of reducing adverse regional emission impacts, in this instance those caused by NOx. (Applicant Reply Brief, pp. 12-13; Staff Reply Brief, p. 5; see *Sundstrom v. County of Medocino* (1988) 202 Cal.App.3d. 296, 308; *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App. 3d 1337, 1355.) There is no dispute that the NOx ERCs required

exceed project NOx emissions, and comply with BAAQMD requirements. (See Exh. 54.) There is also no dispute that overall nitrogen emissions from in-City generation will be reduced as a result of the application of BAAQMD NOx regulatory limits. (Exh. 15, Vol. 2, Table 8-2C-4) These reductions ~~therefore~~ adequately cancel~~ing~~ the SFERP's contribution to the existing nitrogen deposition impacts on San Bruno Mountain. (Ex. 46, p. 4.2-13.)

The intervenor also contends that since the SFERP will not unequivocally result in the shutdown of Potrero 3, it cannot take credit for reduced emissions due to any closure of that facility. He apparently overlooks the results of three modeling scenarios which include the NOx reductions the SFERP will provide, and the NOx reductions from application of BAAQMD NOx regulatory limits on the Potrero and Hunters Point Plants, with or without the continued operation of Potrero.

The analysis of these three scenarios contained in the record shows that even with operation of SFERP and continued operation of the Hunters Point and Potrero power plants (with the required SCR control in place) emissions in southeast San Francisco would be reduced by more than 52 tons per year of nitrogen. Alternatively, the continued operation of the Potrero Power Plant and the shutdown of the Hunters Point Power Plant will result in a net reduction in nitrogen emissions of approximately 86 tons per year. Finally, if both the Potrero and Hunters Point power plants are shut down, the area would see a net reduction in nitrogen emissions of about 169 tons per year. (Ex. 46, p. 4.2-13.) It is worth noting that the Hunters Point Power Plant has shut down. 5/31/06 RT (Eng) at 148: 6-8; thus net reductions in nitrogen emissions of at least approximately 86 tons per year have already been achieved. (Ex. 15, vol. 2. Table 8.2C-4)

The basic point of these analyses is that the ERCs provided by SFERP combined with the application of BAAQMD NOx regulatory limits to existing in-City generation will reduce nitrogen deposition. The extent of reduction increases as

the Hunters Point and Potrero units cease operations. Thus, we conclude that. under any likely scenario, nitrogen emissions will be reduced in the area and nitrogen ~~NOx~~ emissions from the SFERP will not exacerbate any existing biological impacts.

....

FINDINGS AND CONCLUSIONS

Based on the persuasive weight of the evidence of record, we find as follows:

4. The primary biological concerns associated with the SFERP are nitrogen deposition on San Bruno Mountain, risk of avian collisions, and the potential transport of contaminants into San Francisco Bay.
5. Nitrogen deposition on San Bruno Mountain currently exceeds acceptable levels.
6. Emissions from SFERP, if not mitigated, will increase nitrogen deposition on San Bruno Mountain. While this increase alone is insignificant, it does contribute to an existing adverse cumulative impact.
7. ERCs are an approved programmatic method of reducing adverse regional emission impacts, in this instance those caused by NOx. The SFERP will provide NOx ERCs consistent with BAAQMD requirements.
8. The application of BAAQMD NOx regulatory limits to in-City generation will result in significant additional reductions in nitrogen deposition on San Bruno Mountain.
9. The combination of the purchase of oxides of nitrogen offsets and the application of BAAQMD NOx regulatory limits to in-City generation, both in accordance with the BAAQMD's programmatic approach to reduce adverse regional emission impacts, adequately mitigates SFERP's contribution to nitrogen deposition impacts.

Proposed changes to address Section V: The PMPD Would Benefit from a Number of Minor Corrections:

Page 2, 2nd full paragraph: The description of recycled water should be revised as follows: "Process water will be delivered from ~~a water pump station located on Marin Street near Cesar Chavez Street~~ outfall manhole number 2 near Illinois Street and Islais Creek to a new water treatment plant located on the project site. A pipeline approximately ~~0.76 of a mile long will connect the pump station~~ 2,600 feet long will connect the manhole and the on-site treatment plant . . . ."

Page 8, 3rd full paragraph, last sentence. The sentence should be revised as follows: "Operation is anticipated by ~~late 2007~~ summer 2008. 4/27/06 RT (Flynn) at 30: 1-4."

Pages 56 and 57, Facility Design Table 2: Major Structures and Equipment List. This table should be revised as follows:

- Page 56, delete "EDI train & feed pumps", replace with "DI mixed bed vessel foundation and connections".
- Page 56, delete "Equalization tank structure & Bio Reactor structure, etc."
- Page 57, delete "Supplemental Aeration Blowers Foundation and Connections"
- Page 57, delete "Membrane Air Scour Blowers Foundation and Connections"
- Page 57, delete "Drain Pump Foundation and Connections"
- Page 57, delete "Permeate Pumps Foundation and Connections"
- Page 57, delete "Mixed Liquor Recirculation Pumps Foundation and Connections"
- Page 57, delete "CIP/Backpulse Pumps Foundation and Connections"
- Page 57, delete "CIP/Backpulse Tank, Structure, Foundation and Connections"
- Page 57, delete "DIP Tank Recirdulation/Drain Pumps Foundation and Connections"
- Page 57, delete "DIP Tank Structure, Foundation and Connections"
- Page 57, delete "Membrane Tanks Structure, Foundations Connections"
- Page 57, delete "Feed Channel Structure, Foundation and Connections"
- Page 57, delete "Combined Inlet System Structure, Foundations and Connections"

Page 73, 4th full paragraph. The first sentence should be revised to state "Natural gas will be supplied from the existing PG&E pipeline ~~101~~ 132, via a new 12-inch diameter pipeline . . . ."

Page 77, 1st full paragraph., 4th and 5th sentences. The sentences should be revised to state "To further enhance reliability, the project will interconnect with PG&E's system near ~~at~~ a natural gas pipeline header. This enables the project to be supplied by any one of three natural gas pipelines in most circumstances."

Page 87-90, TSE-5, TSE-6 and TSE-8. There are references to CPUC General Order 98128. These references are incorrect and should be changed to CPUC General Order 128.

Page 105, first full paragraph, 5th and 6th sentence. The sentences should be revised to state: "CO and SO_2 emissions (for which the District is in attainment) will adequately controlled by the use of BACT~~, and the project's level of SO_2 emissions~~. Exh. 15, Vol. 1, at 8.1-50-51. In addition, the project's level of SO_2 emissions is 2.7 tons per year, ~~is~~ well below the level (100 tons per year) which would require offsets under District rules. Id."

Page 105, footnote 21. The following sentence should be added. "However, the enhanced street cleaning program proposed by the City to mitigate PM_{10} will produce reductions of 24 tons per year of PM_{10} as compared with the projects emissions of 15 tons per year. 5/31/06 RT (Rubenstein) at 28: 16-19. The excess 9 tons per year in PM_{10} reductions more than offset 2.7 tons of SO_2 even using the 3:1 factor used to address $PM_{2.5}$ in AQ-SC12."

Page 111, Findings and Conclusions 8, Second sentence. The sentence should be revised to state "However, the required mitigation (in the form of an enhanced street sweeping program) will mitigate the project's impacts to a level that is less than significant."

Page 171. Waste-2 , last sentence. DTSC should be replaced with SFRWQCB in this sentence.

Page 179; Findings and Conclusions 8. The finding should be revised to state: "Implementation of the Conditions of Certification, below, ~~and~~ which incorporate the mitigation measures described in the evidentiary record will ensure . . . ."

Page 229, end of the first paragraph. Add the following:

Finally, the San Francisco Department of Public Health (SFDPH) oversees compliance with Article 22A of the San Francisco Public Health Code (the Maher Ordinance) which requires analysis and mitigation if hazardous wastes are present in soil at locations in the City known to contain historic fill, including the SFERP site. Exh. 88 at 6.

Page 230 at the top of the page revise the sentence fragment as follows "soils materials impacted by heavy metals, and polynuclear aromatic hydrocarbons ~~and residues from a former manufactured gas plant~~ will likely be encountered during drilling and excavation activities."

Page 232, first full paragraph. Delete the sentence which states "Conditions of Certification will require additional data."

Page 238, third line. Revise to state: "On the contrary, it appears that the City has cooperated with Staff in undertaking additional activities to accurately characterize the project site, and reaching agreement on a set of conditions that will ~~accurately characterize the project site and~~ provide for appropriate remediation of ~~any~~ the contamination which ~~is~~ has been found.

Page 234. Point 6. The point should be revised to state. "6. Certification Report. This is required by the City's Maher Ordinance, often referred to as Article 22A; it will include ~~requires~~ the results of the verification sampling analysis if required by the SFRWQCB and the SFDPH.

Page 234. Last sentence. Revise to state: "The performance standards contained in the Conditions of Certification ensure that project construction, operation, and any required remediation will not result in a public health risk exceeding 1 in one million (cancer) and a 1.0 Hazard Index, and that workers will not be subject to greater than 1 in 100,000 (cancer) and 1.0 Hazard Index. (Ex. 49, p.6.)

Application for Certification for the SAN FRANCISCO ELECTRIC RELIABILITY PROJECT (SFERP)	)	Docket No. 04-AFC-1

PROOF OF SERVICE

I, Paula Fernandez, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, California 94102.

On September 20, 2006, I served the following document(s):

COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION FROM THE CITY AND COUNTY OF SAN FRANCISCO

on the following persons at the locations specified on the attached service list in the manner indicated below:

BY UNITED STATES MAIL: Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

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

Executed September 20, 2006, at San Francisco, California.

Paula Fernandez

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