Making San Francisco Bay Better

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California Energy Commission
William Pfanner, Project Manager
Systems Assessment & Facility Siting Division
Docket # 04-AFC-1
1516 Ninth Street, MS-15
Sacramento, CA 95814

SUBJECT: San Francisco Energy Reliability Project
BCDC Inquiry File 7512.5

Dear Mr. Pfanner:

I am writing on behalf of the San Francisco Bay Conservation and Development Commission (BCDC) to provide recommendations on the California Energy Commission's (CEC) Preliminary Staff Assessment for the San Francisco Electric Reliability Project (SFERP) proposed by the City and County of San Francisco. Section 66645 of the McAteer-Petris Act and Public Resources Code Section 25523 requires BCDC to report to the CEC its findings and recommendations on proposed power plants within BCDC's jurisdiction. BCDC's recommendations must state whether a power plant is consistent with the Act and the *San Francisco Bay Plan* and, if it is inconsistent, the modifications required to make it consistent. The law further provides that the CEC include BCDC's recommendations in any decision to approve a proposed power plant unless the CEC specifically finds that the adoption of the recommended provisions would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

Thank you for the opportunity to comment on this project. Specific details regarding drainage improvements associated with the project were recently added to the project proposal. Thus, BCDC staff only recently determined that a drainage swale and riprap would extend into BCDC's jurisdiction and we are hereby submitting our recommendation on the project. Although BCDCs Commission has not reviewed the Preliminary Staff Assessment, our staff comments are based on BCDC's law, the McAteer-Petris Act, its *San Francisco Bay Plan* (Bay Plan), the federally-approved management program for the San Francisco Bay segment of the California Coastal Zone, and the federal Coastal Zone Management Act of 1972, as amended (CZMA).

The SFERP would be located on a CCSF-owned, 4-acre parcel at the eastern terminus of 25th Street. The portion of the SFERP currently under review by the CEC involves the following project elements: three 48-megawatt power plants, a small switchyard, underground and above-ground transmission cables to the Potrero Power Plant switchyard, associated structures, and a vegetated swale with riprap. After reviewing the CCSF's Application for Certification and the CEC's Preliminary Staff Assessment, the staff concludes that, with the exception of the drainage improvements, this project is outside of BCDC's jurisdiction.

The vegetated swale would run along the eastern border of the power plant site, parallel to Maryland Street (a paper street) and terminate near BCDC's 100-foot shoreline band jurisdiction at the intersection of Maryland and 25th Streets (paper streets). Within BCDC's jurisdiction, a 12-inch-thick riprap apron would extend approximately to the Mean High Tide Line to protect against shoreline erosion. The drainage improvements raise two issues for BCDC to address: (1) whether the project provides maximum feasible public access that is consistent with the project and does not have a significant adverse effect on present or possible future maximum feasible public access to the Bay consistent with the project; and (2) whether the project is consistent with the BCDC's policies on water quality.

1. **Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that: "...existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." The *San Francisco Bay Plan* policies on public access further state that "...maximum feasible public access should be provided in and through every new development in the Bay or on the shoreline...the access should be permanently guaranteed...should be consistent with the physical environment...provide for the public's safety and convenience...and be built to encourage diverse Bay related activities and movement to and along the shoreline...."

   While providing public access to and along the Bay shoreline would be feasible at this project site and consistent with the scope of the entire project, BCDC would not likely require public access for such a small portion of the project within BCDC's jurisdiction. However, to meet the public policy goals outlined in the McAteer-Petris Act, the CEC should consider whether the SFERP should contain a public access component as part of the CEC's broader responsibilities over the project. In any event, the proposed riprap in the 100-foot shoreline band would impede future public access to and along the shoreline of the Bay. Therefore, BCDC recommends including in any CEC certification of the SFERP the condition below.

   Condition of Certification SOIL & WATER-XX: In the event the project owner is notified by the Bay Conservation and Development Commission (BCDC) or the Port of San Francisco (Port) that a proposed segment of the San Francisco Bay Trail or BCDC-required shoreline access is to be located across the outfall of the SFERP stormwater swale, the project owner shall design and construct a conveyance, such as a culvert or bridge, to accommodate continuation of the San Francisco Bay Trail or BCDC-required shoreline access across the outfall without impeding stormwater flow from the SFERP site. The conveyance shall be consistent with all applicable requirements of the BCDC, Port, and the San Francisco Bay Regional Water Quality Control Board (RWQCB).

   Verification: Within 90 days of notification by BCDC or the Port of San Francisco that a San Francisco Bay Trail segment or other form of shoreline access will cross the outfall from the SFERP stormwater swale, the project owner shall submit a proposed plan for a conveyance to accommodate continuation of the San Francisco Bay Trail or BCDC-required shoreline access across the outfall without impeding stormwater flow from the SFERP site. The plan shall be provided to the BCDC, Port and RWQCB for review and comment and to the CPM for review and approval. Upon approval of the plan, the project owner shall commence design and construction of the conveyance on a schedule approved by the BCDC and the Port.

2. **Water Quality.** The drainage improvements are consistent with the applicable water quality policies in the *San Francisco Bay Plan* (policies 2, 3, 5 and 6), which state, in part that "[n]ew projects should be sited, designed, constructed and maintained to prevent or, if prevention is infeasible, to minimize the discharge of pollutants into the Bay by...controlling pollutant sources at the project site...and applying appropriate, accepted and effective best management practices." The policies further state that "...new development should be sited and designed consistent with standards in municipal stormwater permits and state and regional stormwater management guidelines....To offset impacts from increased impervious areas and land disturbances, vegetated swales, permeable pavement materials, preservation of existing trees and vegetation, planting native vegetation and other appropriate measures should be evaluated and implemented where appropriate." Because the purpose of the drainage improvements is to use a vegetated swale to control runoff and, thereby, minimize the discharge of pollutants into the Bay and because these drainage improvements will be reviewed and approved by the Regional Water Quality Control Board, the project is consistent with the Bay Plan policies on water quality.

Thank you again for the opportunity to comment on this project. Please feel free to contact me with any questions at 415/352-3646.

Sincerely,

LESLIE LACKO
Coastal Planner

cc. Dick Ratliff, California Energy Commission
Karen Kubick, Hetch Hetchy Power Enterprise