

Response to CEC Staff Data Adequacy Comments

Technical Area: Land Use

Following are additional information and/or clarifications in response to the specific issues raised in the CEC staff Data Adequacy review. For each specific area where the AFC was considered inadequate by CEC staff, the applicable section of the CEC siting Regulations is identified, followed by the “Information Required to Make AFC Conform with Regulations”, followed by the supplemental/clarifying information.

LAND-1. Appendix B (g) (3) (A) (ii).

Information Required:

Please discuss any zoning changes and future land use development for properties within San Bernardino County, City of Adelanto, and City of Hesperia jurisdiction, within one mile of the proposed site and one-quarter mile of linear facilities. Because a General Plan Amendment has been approved by San Bernardino County and will go into effect in April 2007, please include any General Plan changes that would affect properties within one mile of the proposed site and one-quarter mile of linear facilities that are within county jurisdiction.

Response:

The Updated San Bernardino General Plan was adopted in March 2007 and will be effective April 12, 2007. The proposed land use zoning districts in the vicinity of the subject property have not been altered significantly from the previous land use designations. The County has jurisdiction on the land to the east of the subject property, beyond City of Victorville land zoned “residential” (see Figure 6.8-6; please note that the detailed legend information on the various land use and zoning designations for Figures 6.8-6 through 6.8-9 are on a single sheet provided after Figure 6.8-9). This County land is zoned for agricultural, rural living, and a flood way. As shown on Figure 6.8-6, the rural living (low density residential) area is across the Mojave River approximately $\frac{3}{4}$ miles from the VV2 Project site at its closest point, and thus no significant land use compatibility impacts are expected. As also shown on Figure 6.8-6, the County also has jurisdiction of lands to the north of the VV2 Project plant site, beyond City of Adelanto land zoned for “desert living” (low density residential). This County land is slightly beyond the one-mile study area surrounding the Project site and there would be no significant land use compatibility impacts.

The Lugo Substation itself and a small portion (less than 1,000 feet) of Segment 3 of the Project transmission line immediately adjacent to the Lugo Substation are located within the jurisdiction of San Bernardino County. As stated in the County General Plan Update that goes into effect on April 12, 2007, this land is currently zoned “OH/IN”—institutional, which are “areas with existing public or quasi-public facilities and uses, or publicly owned lands intended for development with public facilities.” Because the Lugo Substation already exists and because the small section of the Project transmission line will be within the existing SCE transmission ROW, the Project use represents no change to the existing use of the property. Therefore, the Project is expected to be compatible with the existing land use within one-quarter mile of the transmission line within the County of San Bernardino.

Lands within the jurisdiction of the City of Adelanto are situated directly across the unpaved Desert Flower Road immediately to the north of the Project site, which lies entirely within the City of Victorville’s jurisdiction. According to Mr. Mark Staples of the City of Adelanto’s Planning Department (personal communication March 26, 2007), the area within Adelanto immediately to the north of the Project is zoned “DL2.5” and “DL9” which are low density residential designations (one dwelling per every 2.5 or 9 acres, respectively). According to Staples, these zoning codes were established in 1994; but no development has occurred in this area since then, nor is any future development planned at this time. When planning/building applications are received by the City of Victorville, notifications regarding submitted projects are sent to property owners and jurisdictions within 300 feet of the proposed project (Personal Communication, Alex Jauregui, City of Victorville Planning Division, March 29, 2007). Recipients of the notifications are invited to comment on the Project during the plan review process. The City of Victorville then takes the responses under consideration during the review process.

The northern boundary of the VV2 Project site is less than 300 feet from the City of Adelanto boundary and thus the City of Adelanto would receive notification from Victorville and would have the opportunity to offer comments. The City of Adelanto conceivably could suggest setbacks or buffers for the VV2 Project that would affect the distance between Project structures and residential property within Adelanto. Power plants are not included in the conditional use table of the Adelanto Municipal Code. The zoning and development code for the City of Adelanto’s industrial areas states that the minimum front yard setback to the building is 25 feet. The minimum side yard setback is 20 feet on the street side and 10 feet all other sides, and a side yard is required for properties that abut residential land. The minimum rear yard setback for properties abutting residential districts is 40 feet. The VV2 Project structures in the northern parts of the site are solar arrays. The Project plans a 100-foot setback from the property line for Project structures, which

exceeds the setbacks Adelanto requires for industrial facilities within its jurisdiction. At its closest point, Project structures would be no closer than approximately 125 feet from the edge of Adelanto properties zoned and planned for low density residential use (the 100-foot Project setback plus the approximately 25-foot width of Desert Flower Road). Landscaping also is planned around the VV2 Project perimeter which would provide a measure of visual screening for areas surrounding the power plant site.

The last five miles of the transmission line, with the exception of the small portion (less than 1,000 feet) discussed above associated with San Bernardino County, are within the jurisdiction of the City of Hesperia. There have been no recent changes to zoning or amendments to the General or any Specific plans within the City of Hesperia within quarter-mile of the linear ROW. The portion of the VV2 Project transmission line within the City of Hesperia would be constructed along the existing SCE transmission line ROW; and the VV2 Project would not represent a change to the existing land use of the ROW. Thus, the VV2 Project would have no adverse land use compatibility impacts in Hesperia.

LAND-2. Appendix B (g) (3) (A) (iv).

Information Required:

1. Please incorporate General Plan and zoning designation references for San Bernardino County lands into Fig. 6.8-3, including County land designations within one mile of the proposed site and one-quarter mile of linear facilities.
2. Please provide an additional figure that identifies San Bernardino County and City of Hesperia General Plan and zoning designation references for all areas within one-quarter mile of all segments of the Transmission Line Route (TLR).

Response:

1. Figure 6.8-6 provides the requested data for San Bernardino County.
2. Figure 6.8-6, as well as Figures 6.8-8 and 6.8-9 provide the requested data for the County (Figure 6.8-6) and City of Hesperia (Figures 6.8-8 and 6.8-9).

LAND-3. Appendix B (g) (3) (B).

Information Required:

1. Please discuss the compatibility of the proposed project with potential residential housing within one mile of the northern boundary of the project in San Bernardino County

and consistency with the San Bernardino General Plan and County Development Code (Title 8, San Bernardino Municipal Code).

2. References in the San Bernardino County Development Code §85.01 address potential land use inconsistencies with the SCLA Specific Plan. Please discuss the compatibility of the proposed project and SCLA Specific Plan with the provisions of San Bernardino County Development Code, §85.01 (Airport Overlay District).

3. AFC §6.8.3.2 indicates that some project equipment would exceed the City of Victorville Municipal Code height ordinance limit. Please identify and discuss the review requirements, findings, and conditions normally required for a variance/exemption to Municipal Code site and/or development standards.

Response:

1. The VV2 Project would pose less than significant impacts in terms of compatibility with land uses within one mile of the Project site. No residential development is currently located to the north of the subject property and any future development of this area within the City of Adelanto would be very low density residential use constructed with property setbacks appropriate for locations adjacent to industrial facilities. As noted in the response to Comment LAND-1, the nearest County lands north of the Project site are slightly more than one mile away. Because of the distance (approximately $\frac{3}{4}$ mile at its closest point), and the location of the Mojave River and agricultural lands between the Project site and the designated County “rural living” area to the east, compatibility impacts are considered less than significant. Also see the response above to Comment LAND-1.

2. Based on a review of the San Bernardino County Development Code Section 83.020505 (b) “Airport Comprehensive Land Use Plans (ACLUP) and any amendments thereto that are prepared and adopted by other jurisdictions (incorporated cities) but impact unincorporated areas of the county shall be reviewed by the Planning Commission and approved by resolution by the Board of Supervisors.” Following this statement it is noted that the Southern California International Airport Comprehensive Land Use Plan has been recognized by the County Board of Supervisors by resolution. (The Southern California Logistics Airport was formerly identified as the Southern California International Airport.) Therefore, the proposed ACLUP for SCLA has been approved by San Bernardino County, and associated land uses designated in the ACLUP are considered compatible with the San Bernardino County General Plan.

3. Typically, the City of Victorville Development Department – Planning Division processes all land entitlement and permitting within the City Limits. This includes the SCLA and the proposed VV2 Project site, which is within the SCLA Specific Plan Area. The VV2 site is within the “Industrial” zone district of SCLA, which lists power plants as a conditional use. Therefore, absent the exclusive jurisdiction of the California Energy Commission, typical City procedures would require approval of a Conditional Use Permit by the Planning Commission in order for the power plant to be built.

As described by City of Victorville Planning Staff, in performing their evaluation of the project, the Planning Division would review the proposed use, the surrounding land uses, and any deviations to the development standards of the zone district (personal communication, Jon Roberts, March 26, 2007). The legislative body (City Planning Commission) would then have to make the following findings in order to approve any deviations to adopted development standards:

1. The elimination of the requirement is not injurious to the public health, safety, and welfare, and;
2. Based upon characteristics of the site, the elimination of the development standard will have no adverse affect on surrounding properties (personal communication, Jon Roberts, City of Victorville Planning Division, March 26, 2007).

As discussed in Section 6.8.1.3 of the AFC, per Chapter 18.44.070 of the City of Victorville Municipal Code, buildings in areas designated as M-2 (Heavy Industrial) have a height limitation of 50 feet (or 35 feet if located within 50 feet of any “R” [residential] district). As noted in AFC Table 6.8-4, the SCLA Specific Plan designates the Project site as Industrial, but indicates that land uses are to be implemented consistent with the City’s requirements for M-2 districts. Project structures whose heights are expected to exceed 50 feet include: 1) the two combustion turbines (height of 90 feet), 2) the top of the silencers (110 feet) and stacks (145 feet) of the two HRSGs, 3) the cooling tower (63 feet), and 4) the crystallizer (55 feet tall). There also are three storage tanks that are 35 feet tall, but none of these structures are within 50 feet of a residential area, and thus the 35-foot limitation does not apply.

City staff indicated that based upon the nature and location of the use, deviating from the maximum allowable height (50 feet) of the zone district is justified (Roberts, 2007). The Project structures that exceed the 50-foot height limitation are typical of combined-cycle power plant facilities. The heights of Project structures also are consistent with FAA height limitations with respect to proximity to SCLA runways and thus meet aviation safety-related requirements. Project facilities will be designed, constructed, and operated in

compliance with applicable seismic standards as well as other LORS whose purpose includes ensuring the safety of facilities.

LAND-4. Appendix B (h) (1) (A).

Information Required:

Please incorporate references to the applicable portions of the San Bernardino County LORS into Table 6.8-1, as they relate to project land use compatibility and siting.

Response:

The following information is provided concerning San Bernardino County LORS that relate to VV2 Project land use issues.

LORS	Applicability
San Bernardino County Development Code, date of most recent change: September 2006	Project is subject to San Bernardino County zoning ordinance requirements for the small portion (less than 1000 feet) of VV2 Project transmission line within San Bernardino County jurisdiction.
San Bernardino County General Plan- Land Use Element, date of most recent change: adopted 3/13/2007, effective 4/12/2007	Provides County of San Bernardino land use goals and policies.

LAND-5. Appendix B (h) (1) (B).

Information Required:

Please identify agencies with jurisdiction to issue applicable permits and/or enforce San Bernardino County, City of Adelanto, and City of Hesperia Laws, Ordinances, Regulations and Standards (LORS) into Table 6.8-2, as they relate to land use.

Response:

The appropriate contacts for the County of San Bernardino County, City of Hesperia, and City of Adelanto agencies are identified below.

Agency	Contact	Permit/Issue
San Bernardino County Land Use Services Dept. 385 N. Arrowhead Avenue, 1 st Floor San Bernardino, CA 92415	Julie Rynerson Rock Director (909) 387-8311	Compatibility with the San Bernardino County General Plan. Land Use Permit for transmission line ROW in County lands.
City of Hesperia Land Use Department 9700 Seventh Avenue Hesperia, CA 92345	Scott Priester Director of Development Services (760) 947-1473	Compatibility with the City of Hesperia General Plan. Land Use Permit for ROW for transmission line within City of Hesperia.
City of Adelanto Community Development Department 11600 Air Expressway Adelanto, CA 92301	Rick Gomez Interim Community Development Director (760) 246-2300	Compatibility with the City of Adelanto General Plan.

LAND-6. Appendix B (h) (2).**Information Required:**

Please identify and discuss the applicable portions of the San Bernardino County LORS and permitting requirements as they relate to project land use compatibility and siting, and compatibility with SCLA and City of Victorville LORS.

Response:

Please see response to LAND-5. Appendix B (h) (1) (B).

San Bernardino County Development Code, Most Recent Amendment adopted September 21, 2006. Development standards from the San Bernardino County Development Code may be applicable to the VV2 Project as a small portion (less than 1,000 feet) of Segment 3 of the VV2 Project transmission line lies within unincorporated County boundaries adjacent to the Lugo Substation. However, the VV2 Project transmission line will be constructed within an existing SCE transmission ROW, and, according to Kristy Bethard of the San Bernardino County Building and Safety Division, a building permit would not be necessary for the VV2 transmission line (personal communication, Kristy Bethard, San Bernardino County Building and Safety, April 2, 2007).

San Bernardino County General Plan-Land Use Element, Most Recent Change effective April 12, 2007. The Land Use Element outlines San Bernardino County's long-range plans for development within unincorporated areas of the County. The Land Use Element is a policy document to guide land use decisions to ensure the orderly growth of San Bernardino County. The VV2 Project plant site is located slightly more than one mile from unincorporated San Bernardino County lands. A small portion (less than 1,000 feet) of Segment 3 of the Project transmission line adjacent to the Lugo Substation is located within County jurisdiction but will be within an existing SCE Transmission ROW. No significant land use compatibility impacts are expected

LAND-7. Appendix B (h) (3).

Information Required:

Please incorporate contact information for agencies with jurisdiction to issue applicable permits and/or enforce San Bernardino County, City of Adelanto, and City of Hesperia LORS into Table 6.8-2, as they relate to project land use.

Response:

The requested contact information was provided above in response to Comment LAND-5.