

BRIGHTLINE DEFENSE PROJECT

240 Golden Gate Ave., Suite 102
San Francisco, CA 94102
415.837.0600 Fax 415.837.0660
www.brightlinedefense.org

October 4, 2007

VIA OVERNIGHT MAIL AND EMAIL

B.B. Blevins, Executive Director
California Energy Commission
1516 Ninth Street, MS-39
Sacramento, CA 95814-5512

Re: Certification of the San Francisco Electric Reliability Project
California Energy Commission Docket No. 04-AFC-1

Dear Mr. Blevins:

Brightline Defense Project is a 501(c)(3) non-profit civil rights legal aid organization based in San Francisco. We write in regard to the San Francisco Electric Reliability Project (“SFERP”), a power plant to be constructed in a low-income, mostly minority San Francisco neighborhood, for which the California Energy Commission (“CEC”) issued a certificate to construct and operate on October 3, 2006.

We hereby request on behalf of a growing number of individuals and organizations that the CEC reconsider its certification of the SFERP power plant.

In particular, we wish to alert the CEC to substantial changes and new information of substantial importance that illustrate that now, exactly one year after the CEC’s certification of the SFERP power plant, the proper alternative is the “No Project” alternative.

The CEC rejected the No Project alternative, which means that the SFERP power plant would not be built, because it “would neither facilitate the possible closure of existing generation or, more importantly, provide enhanced reliability for San Francisco’s electrical supply.” CEC Final Commission Decision, p. 25.

However, recent developments and information suggest that the aging Potrero Power Plant can be closed, and San Francisco’s electrical reliability bolstered, without the SFERP plant.

Our objective is zero new power plant pollution in San Francisco, especially in its most disadvantaged neighborhoods. By re-examining this project, the CEC can provide zero pollution.

The SFERP power plant, considered in the CEC’s October 3, 2006 Final Commission Decision to be operational “in late 2007,” is now anticipated to be up and running by 2009 at the earliest. In the meantime, several electricity transmission and generation projects which were only concepts at the time of the CEC’s analysis are becoming realities.

Specifically, the Trans Bay Cable (“TBC”), which will bring 400 megawatts of power to San Francisco, received its final discretionary approval from the Bay Conservation and Development Commission in August 2007 and completed its financing on September 24, 2007. It will operate in the first quarter of 2010 and even if the SFERP plant is completed prior to the TBC, the California Independent System Operator (“CA ISO”) indicated on February 15, 2007 that it will not remove the Reliability Must Run (“RMR”) designation of the Potrero Plant until the TBC is complete.

Meanwhile, the SFERP will contribute additional pollution until the Potrero Plant shuts down.

CA ISO has indicated that it prefers electricity generation to replace the Potrero Plant if it is to remove the plant’s RMR designation in hopes of inducing the Mirant Corporation to voluntarily shut down the Potrero Plant. CA ISO has stated that such generation will address concerns for readily available generation during times of emergency.

Not only is the reliability of the SFERP, a natural gas-burning plant to be sited in an earthquake liquefaction zone, questionable in a time of emergency, but there are new renewable electricity generation opportunities that have arisen and continue to arise.

The California Public Utilities Commission in September 2007 published a Staff Progress Report that notes that the California Solar Initiative, the second largest solar incentive program in the world, has this year already received applications to produce nearly as much solar power as has been installed in the past 26 years combined.

Wind power has attracted new investments in 2007, including a 15 year agreement between Pacific Gas & Electric and PPM Energy for the purchase of wind energy and Wells Fargo’s \$160 million investment in five wind projects in the past year. A May report from the Department of Energy predicted wind capacity growth of 25 to 30 percent in 2007.

Furthermore, San Francisco Mayor Gavin Newsom on June 19, 2007 announced the most comprehensive study to date of the feasibility of installing turbines beneath the San Francisco Bay to generate energy from tidal power that could provide greenhouse gas-free electricity to as many as 40,000 homes in San Francisco.

These developments in the types of electricity generation available to San Francisco represent a sea change in terms of society’s attitude toward our environmental future. There is no greater indicator of the growing consciousness of the environmental health of our communities than the April 2, 2007 decision of the U.S. Supreme Court in Massachusetts v. EPA, 549 U.S. ___, 127 S. Ct. 1438 that greenhouse gas emissions pose such a serious threat that the Environmental Protection Agency must regulate greenhouse gases as pollutants under the Clean Air Act.

Together with the SFPUC’s September 25, 2007 announcement that Pacific Gas & Electric has implemented a plan to reconductor existing transmission lines to increase capacity and install demand-side management programs to curb San Francisco’s electricity usage, the developments we have described suggest that our clients’ neighborhood can be SFERP power plant-free.

We are aware that the statutory thirty-day period within which to file a formal Petition for Reconsideration has lapsed. CALifornians for Renewable Energy (“CARE”), a signatory of this letter, filed such petition on November 1, 2006, but the CEC affirmed its final decision on December 19, 2006.

In its comments and pleadings before the CEC and subsequent Petition for Review before the California Supreme Court, CARE consistently raised issues related to the inadequacy of mitigation measures adopted by the CEC pursuant to the California Environmental Quality Act (“CEQA”) for air quality impacts of the project.

Yet the CEC today retains the power to reconsider the SFERP power plant in the light shone by the developments and new information we have described, at our request, pursuant to Public Resources Code section 25530. The CEC may also reopen certification of the SFERP under CEQA, Title 14, California Code of Regulations Section 15162 as discussed below.

The CEC’s Final Staff Assessment (“FSA”) was conducted “in accordance with the requirements of the CEQA,” and thus the CEC “acts in the role of the CEQA lead agency and is subject to all other applicable portions of CEQA.” FSA, p. 2/3-4.

Under CEQA Section 15162 the CEC has the power to order a subsequent Environmental Impact Report (“EIR”), or Final Staff Assessment, when:

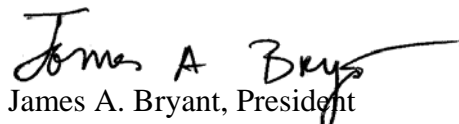
- (2) “*Substantial changes occur* with respect to the circumstances under which the project is undertaken...due to the involvement of new significant environmental effects ...; or
- (3) “*New information of substantial importance*, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows ...:
 - (C) “Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project”
(emphasis added)

We believe that we have outlined to the CEC substantial changes and new information that sufficiently warrant its reconsideration of the No Project alternative. On behalf of the residents of Potrero and Bayview Hunters Point, as well as the San Francisco community at large, we ask that you promptly begin to re-assess the Commission’s certification of the SFERP, a polluting power plant that is no longer necessary.

Sincerely,



Joshua Arce, Executive Director
Brightline Defense Project



James A. Bryant, President
S.F. Chapter of the A. Philip Randolph Institute



Michael Boyd, President
CALifornians for Renewable Energy



Lynne Brown, Vice-President
CALifornians for Renewable Energy

cc: *California Energy Commission*
Jackalyne Pfannenstiel, Chair
James D. Boyd, Vice Chair
Arthur H. Rosenfeld, Commissioner
John L. Geesman, Commissioner
Jeffrey Byron, Commissioner

San Francisco Public Utilities Commission
Ryan L. Brooks, President
Ann Moller Caen, Vice President
E. Dennis Normandy, Commissioner
Ambassador Richard Sklar, Commissioner
David Hochschild, Commissioner

Hon. Gavin Newsom, Mayor, City and County of San Francisco
Aaron Peskin, President, San Francisco Board of Supervisors
Dennis Herrera, City Attorney, City and County of San Francisco
and concerned citizens of San Francisco