

II. DISCUSSION AND ANALYSIS

As noted above, this proceeding involves an application for a Certificate of Public Convenience and Necessity to construct a gas-fired generating plant on an industrial-zoned site located in Frederick County, Maryland, near the town of Adamstown. The application has been filed pursuant to Sections 7-207 and 7-208 of the Public Utility Companies Article, *Md. Ann. Code*. Pursuant to the statute, the Commission shall take final action on the application only after due consideration of the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station is proposed

⁴ Pursuant to Section 7-207(d)(4) of the Public Utility Companies Article, the Commission shall allow State Agencies 15 days after the conclusion of the hearing to modify their initial recommendations.

⁵ Mr. James' reply brief and OPC's letter in lieu of a final brief are admitted as their final replies although the Commission docket does not indicate their filing with the Executive Secretary's office by the February 18, 2005 date for reply briefs, as it appears that such documents were timely provided to other parties.

to be located, as well as due consideration of the effect of the generating station on the stability and reliability of the electric system, economics, aesthetics, historic sites, aviation safety, air and water pollution (when applicable), and the availability of means for required timely disposal of wastes produced by the generating station.⁶

A. Preliminary Issue - Post-Hearing Recommendations and Conditions

A preliminary issue prior to determination of the merits of the application concerns Catoctin's arguments on brief that certain conditions proposed by other parties in their respective briefs, such as Frederick County and OPC, are inappropriate extra record proposals that should be rejected as the evidentiary record in this proceeding has closed. Specifically, Catoctin contends that certain conditions proposed by parties on brief reflect new information that properly should have been introduced while the evidentiary record was open to allow full cross-examination of such proposals. Catoctin contends proposed conditions presented in the briefing stage deny other parties an opportunity to fully and fairly test such proposed conditions through cross-examination and discovery in violation of procedural due process. Catoctin therefore contends that the County's post-hearing slate of proposed CPCN conditions should be excluded from consideration, and similarly argues against a proposed OPC reporting requirement of the Company

⁶ Section 7-207(e).

raised in OPC's post-hearing comments. However, while not waiving its rights, Catoctin has submitted substantive argument on such proposed conditions while also maintaining an objection as noted.

In considering Catoctin's apparent objections to the County's (and OPC's) proposed conditions as a violation of due process, it is noted that this case has been litigated over many months with substantial pre-filing of testimony, and several hearings for cross-examination of parties' witnesses and positions. During the course of the testimony and hearings, numerous conditions have been produced upon the record, which have in fact been included in testimony and subject to examination by all other parties as noted by Catoctin. However, while most conditions have been proposed through the testimonial process and undergone opportunity for cross-examination by all parties, this does not necessarily mean that conditions or other proposals advocated subsequent to the hearing process should be excluded as a violation of due process. The evidentiary record in this matter consists of the testimony and other material evidence, such as exhibits, that have been admitted during the course of the hearings in this matter, and the evidentiary record is in fact concluded at the close of the evidentiary hearings, unless specific reservation has been made for future admission by holding the record open on a specific matter.

However, while Catoctin is correct that the evidentiary record may have concluded at such time, this does not necessarily preclude a party from advocating a position subsequent to the hearings held in this matter, but such later proposals do not

constitute evidence in this matter but are accepted as part of a party's arguments on brief which are also part of the record, although not of an evidentiary weight. Ideally, a party's final positions as expressed in brief should be supported by the evidentiary record, but the final positions of a party and their final recommendations may in fact differ from earlier positions taken through their witnesses based upon the entire record that has been produced in a Commission proceeding. The parties are free to adjust their final positions on brief, including proposals for new recommendations in their final position, although the post-hearing recommendations would not constitute evidence in the case unless they have in fact been admitted as such during the hearing process. Accordingly, Catoctin's objections to final recommendations, including newly proposed conditions, made by other parties on brief are denied to the extent Catoctin seeks to preclude such consideration of conditions or other final proposals made on brief that were not included in the evidentiary portion of this case, but such denial is predicated on the understanding that certain final proposals constitute final arguments of the parties and do not elevate any such proposals into evidence in this case.

B. Primary Issue - Issuance of CPCN

The fundamental issue in this proceeding concerns whether the Commission should issue a Certificate of Public Convenience and Necessity for the Applicant, Catoctin Power, LLC, to construct a nominal 600 MW generating facility in Frederick

County. The record reflects that Catoctin filed its application on February 25, 2004, seeking to construct the generating station at the Eastalco industrial site located in Frederick County, which Eastalco complex is a large parcel zoned for industrial use and includes an aluminum smelting facility operating since 1970. Catoctin, which is a wholly owned indirect subsidiary of Sempra Energy Resources, was formed by Sempra to develop, own and operate the project, as Sempra is a company which specializes in development and operation of power generating facilities and has more than 6,000 MW of generating capacity in operation or active development. Sempra's power plants include state-of-the-art combined-cycle power generation technology that use clean-burning natural gas to generate electricity for the wholesale power market, and this project continues that line of business as a proposed natural gas-fired electric power generating facility that would use two combustion turbines with electric generators, associated heat recovery steam generators, and a steam turbine. The proposed project site will be leased on an approximately 20 acre tract of land near the middle of the total 2,200 acre Eastalco complex, and is located approximately one and a quarter miles from Adamstown, Maryland, and approximately eight miles south of Frederick, Maryland. The Company proposes in the application to begin construction in the spring of 2005 and conclude in the summer of 2007, and has therefore requested a waiver of the provisions of Section 7-208(b) of the Public Utility Companies Article to allow commencement of construction earlier than two years from the date of application.

The Applicant contends the project is in the public interest as it will enhance system reliability and foster transition to a workable competitive energy market by increasing supply reliability in the State, noting in part that other recent proposals for new generation have in fact been canceled. Furthermore, Catoctin notes the project will be developed on an existing industrial parcel and therefore avoids concerns associated with developing a generation station on other "greenfield" locations, and the project will be developed without need to construct off-site transmission lines. Catoctin considers the location of the proposed site to be one of the most desirable locations in Maryland to develop a new power plant from both an environmental and energy infrastructure perspective, and the project will be a very "clean" plant with extremely low emissions that will help to facilitate transition to more efficient cleaner burning power generation technologies. In addition, the Applicant will offset its NO_x and VOC emissions by retiring emissions from one or more nearby sources, thereby assuring that area-wide emissions are actually reduced by the project commencing operations for these pollutants. The Applicant also considers other environmental effects of the project to be fully within applicable regulatory standards relating to air quality, noise levels, water quality, and land use.

During the course of this proceeding, the Applicant has presented extensive testimony regarding the alleged benefits of the project, including witnesses, testimony, and exhibits regarding each of the specified factors to be considered by the Commission in

determining a CPCN application. In addition, the Power Plant Research Program has made a comprehensive review and analysis of the proposal, and also presented witnesses regarding the statutory factors. As noted above, PPRP and Catoctin have reached an agreement in which PPRP notes its position in support of the project with the numerous conditions attached, which conditions have taken into account all relevant factors and considerations and also considered the information contained in the parties' environmental review and supporting testimony. In the agreement, PPRP has stipulated that the construction and operation of the project in accordance with the agreed final 110 conditions would meet or exceed requirements of all currently applicable environmental laws and regulations, including those relating to noise abatement and control of air and water pollution.⁷

The intervening water supplier parties, Washington Aqueduct Division of the U.S. Army Corps of Engineers, Fairfax County Water Authority, and WSSC, have also reached an agreement with the Applicant as such water suppliers recommend that the CPCN include certain additional conditions as agreed by these parties which would protect the water resources of the Potomac River basin, especially during times of low flow and drought. These conditions generally require Catoctin to augment water flow or curtail consumptive use of the Potomac River water during specified low flow conditions, and the water suppliers note that no party opposes such

⁷ Catoctin-PPRP Agreement of Stipulation and Settlement, p. 3 ¶ 1 (PPRP Exh. No. 15), docketed January 13, 2005 (Docket Entry No. 68).

conditions which will ensure that the proposed facility will have no adverse effect on the adequacy of the existing reservoir system to meet water suppliers' needs.

As to positions of other parties, intervenor Donald L. James has expressed opposition to the grant of the application. As basis for his opposition, Mr. James notes a concern that the operational power plant will contribute to a decrease in property values in the immediate area, citing negative connotations of power plants as well as the height of the structures. Mr. James also emphasizes concerns regarding the local air quality resulting from the project, noting that while the State Agencies and other expert parties in this proceeding indicate that applicable guidelines will be satisfied, unless local air monitoring occurs, no parties can state what is the actual air quality near the plant. He therefore proposes that if the CPCN application is approved, it should be contingent on quarterly air testing at a minimum of three locations surrounding the plant, including Carroll Manor Elementary School, to be conducted by an independent third party and funded by Catoctin. The testing should continue for two years and be continued if necessary, and should include monitoring of CO, NO_x, VOCs, SO₂, fluorides, PM10, and PM2.5.⁸ In this regard, he contends such monitoring will indicate the exact quality of air and how it will be affected after the plant is in operation, and provide a level of both safety and comfort to the nearby residents

with respect to air quality. He therefore opposes any exemptions from ambient air monitoring requirements sought by the Company, and requests his monitoring proposal be a specified condition if the application for a CPCN is granted.

Intervenor Rolan Clark, who is also a nearby resident in the area, has participated in the hearings in this matter and appears to have concerns with the project.⁹ Other residents of the area have also expressed concerns or opposition to the project at the evening hearing for receipt of public comment or in written comments submitted by the residents. These concerns and opposition generally involve feared impacts of the project on property values, air emissions, and water resources. Several nearby residents clearly expressed opposition as they believe the site is not appropriate for a power plant as they fear deleterious effects on the community if the plant is built.

Frederick County has fully participated in this proceeding during the hearings and on brief, and in its final position indicates that if a CPCN is granted by the Commission, certain proposed conditions of the County should be included in the Certificate supplementary to those conditions agreed by the Applicant with the State Agencies (as represented in the agreement with PPRP) and with the water suppliers. Among Frederick County's

⁸ PM10 and PM2.5 refer to Particulate Matter emissions of certain sizes (fine particulate matter with diameter smaller than 10 microns or 2.5 microns).

⁹ Proposed testimony of an economic consultant initially sponsored by Mr. Clark was not admitted into the record.

proposed conditions are site plan conditions requiring the plant be constructed in accordance with the project site plan, and the applicant shall obtain permits from the County prior to beginning site work at the project. The County also proposes additional ambient air quality conditions including obtaining NO_x and VOC offsets from Frederick County sources, if available, or from the geographically closest available sources, as well as compliance with all local PM_{2.5} ambient air quality standards in effect and which might be required in the future. The more controversial proposed County conditions involve water-related conditions if the project uses the County effluent as a cooling source, and a land preservation condition which would require Catoclin to place approximately 250 acres of land located in the vicinity of the plant into permanent agricultural preservation.¹⁰ In its final position, the County appears to neither support nor oppose the threshold issue of granting the CPCN, but emphasizes its position that if such Certificate is granted, then the County's proposed conditions should be included.

Eastalco did not present any witnesses in this proceeding, but has filed briefs indicating opposition to Frederick County's proposed land-use condition that would require Catoclin to work with Eastalco to place large parcels of land in the vicinity

¹⁰ The County's contested water-use conditions and land preservation condition are discussed in greater detail below in this Order. The proposed 250 acre land preservation condition is intended to serve as a buffer between the plant and community (specifically the St. Matthew's Church) and to offset negative impacts of the plant on the residents' quality of life, according to the County.

of the plant into permanent agricultural preservation. Eastalco contends that Frederick's proposed agricultural preservation condition is unsupported by evidence, is outside the scope of the Commission's jurisdiction, and would be unconstitutional.

The final party that has sponsored a position in this matter is the Commission Staff. Staff has sponsored a witness and filed briefs in which it concentrates on the stability and reliability of the electric system. Staff concludes that the record indicates that, should Catoctin comply with PJM's requirements pertaining to direct connection and network upgrades, operation of the proposed plant should not negatively affect the reliability of the electric system in Maryland. Staff states the record indicates the plant will require a single circuit 230 kV line between the plant and an Eastalco substation, and two 230 kV metering packages on the line between the Doubs Substation and Eastalco. Staff further states that the plant will benefit Maryland's electric system through increasing generation adequacy and thereby lessening the State's dependence on foreign electricity, providing reactive and voltage support at Doubs, alleviating congestion costs associated with power flows through Doubs, and offering potential to alleviate excessive loading of a transmission line feeding Doubs. Staff supports the CPCN provided that several conditions regarding interconnection with the PJM are included. These conditions include certification by Catoctin that transmission system improvements have been completed and interconnection requirements have been met, as well as filing a copy of its interconnection service agreement

with the Commission prior to putting the project into service. Finally, Staff considers such certifications to be conditions precedent to operation of the proposed plant that must be performed prior to the plant being put into service, and Staff recommends the application be denied if such proposed conditions (that is, the certifications requested by Staff) are not provided prior to the plant being placed into service.

The Office of People's Counsel has indicated in post-hearing comments that it supports Staff's proposed conditions with respect to certifications regarding the stability and reliability of the electric system, while further recommending a clarification that reports should be submitted at least 30 days prior to operation of the proposed facility so that sufficient time is available for review of filings related to transmission and interconnection.¹¹

1. Economic Concerns

The opponents of the plant noted areas of concern with regard to economic effects on the general area, as well as concerns with air emissions and the affect on water sources. With respect to the economic effects, there is simply no credible testimony that the plant will in fact reduce property values as feared by certain

¹¹ An exception to this prior reporting concerns the interconnection service agreement which can be filed after the project is put into service, as specified in Staff's proposed conditions, according to OPC.

neighboring residents. Furthermore, the fact that the plant is to be constructed on less than 20 acres of a much larger industrial site with an existing major industrial facility that is nearly as prominent in height as the proposed plant belies the fears of the residents that the addition of a clean gas-fired power plant will change the character of the area and adversely impact property values. The Company has produced testimony regarding certain positive economic benefits that will result from the plant construction and workers employed there, including revenues and taxes that will benefit the economy and government, and the record contains a paucity of evidence indicating that land values will reduce from the plant as feared, especially in this situation where it is located next to an existing large industrial facility. The Company has further agreed to numerous conditions regarding mitigation of aesthetic effects, such as planting and screening, although the Company objects to the condition proposed by Frederick County with respect to placing large amounts of nearby acreage in agricultural preservation, which proposed condition will be discussed in greater detail below.

2. Emission Concerns

Another area of major concern by opponents of the application concerns the emissions of the project, specifically the effects on local air quality. The Applicant's witnesses, such as Mr. McCann, one of the air quality consultants presented by the Company, have indicated that project emissions are too low to

adversely impact air quality as they are in fact less than the federal level of significant impact for any pollutants. This conclusion is also supported by PPRP witnesses Garrison and Paul. However, the Applicant's witnesses (Kosky and McCann) acknowledge that Maryland is considered a severe nonattainment area for ozone, which is formed by emissions from NO_x and VOC.¹² Furthermore, the Company must obtain offsets in the ratio of 1.3 pounds for every 1.0 pound emitted for NO_x and VOC, which offsets must be approved by the Department of the Environment. The Applicant further concludes that due to the regional offsets, as well as satisfying Lowest Achievable Emission Rate ("LAER") requirements, this project will not worsen the ozone levels in the vicinity as in fact the project's emissions are approximately 1/40th of other power plant emissions. Furthermore, the Applicants' witnesses indicate that both Frederick County and the Adamstown area, as well as the entire region, actually will experience improved air quality as they will benefit from the offsets which will result in a reduction of pollutants forming ozone. Mr. McCann notes that the air quality in the Adamstown area is in fact very good, and the plant will have monitors on emissions at the plant site although there is no air monitor in the Adamstown area off the plant site. Mr. McCann also states that the air quality in Frederick County for ozone was actually improving, but other areas in the region have been

¹² Ozone is a result of a chemical reaction in the atmosphere, rather than an emission from the project, and the nonattainment area is region-wide, not limited to the specific location of the plant. Therefore, the local air quality for ozone may be affected by emissions from far away sources.

deteriorating so that Frederick County was designated a severe nonattainment area for ozone several months prior to the hearing in this matter.

While no other pollutants have been indicated to be a nonattainment area with respect to Frederick County, witness McCann confirmed that the Environmental Protection Agency ("EPA") is currently reviewing particulate matter and proposed Frederick County be classified nonattainment for fine particulate matter (PM2.5). However, this designation has been contested, and it has not been finalized.¹³

Mr. McCann also notes that the project is subject to Prevention of Significant Deterioration ("PSD") review requirements for the following fine pollutants: sulfur dioxide, total suspended particulates, particulate matter 10 (PM10), nitrogen oxides, and carbon monoxide. However, he states significant impact threshold levels for all the criteria pollutants have not been exceeded by the project, as the projects maximum impacts are predicted to be three percent or less of the national ambient air quality standards ("NAAQS"), and therefore the maximum impacts are well below the levels designed to protect human health and welfare. Mr. McCann states that the projects maximum impacts are therefore 30 times lower than the levels that affect human health. Due to such low

¹³ According to the record, fine particulate matter may affect children and elderly by contributing to problems with lungs and asthma. Ozone may also affect respiratory problems and contributes to acid rain.

level of impacts, pre-construction ambient air monitoring data for the pollutants is not required, according to the applicants' witnesses. They conclude that the project's potential impacts on air quality in nearby communities are expected to be minimal and far below the ambient air quality standards that are desired to protect the health and welfare.

The State Agencies have also provided testimony by witnesses Paul, Ross and Garrison with respect to the potential emissions and effect on air quality. Mr. Paul has testified that PPRP and ARMA have concluded that the new facility should be considered a separate source for PSD purposes from the existing Eastalco plant, which is an existing major source of emissions. He further states that emissions of other regulated pollutants, including lead, total fluorides, total reduced sulfur, reduced sulfur compounds, hydrogen sulfide, mercury, beryllium, arsenic, asbestos, vital chloride, chlorocarbons, halons, and radionuclides, will be zero or negligible.

Mr. Paul also testified that the proposed project has potential emissions of NO₂, CO, SO₂, and PM₁₀ that are subject to PSD review, and potential emissions of NO_x and VOCs will be above applicable thresholds and so trigger nonattainment new source review requirements. Mr. Paul states he has reviewed the Company's proposed operations for achieving Best Available Control Technology ("BACT") for emissions of NO_x, CO, SO₂, and PM, and he concurs with Catoctin's conclusions for achieving BACT. He further reviewed impact assessments of the Company's air quality dispersion models

and concurs that the maximum impacts for all pollutants of concern and all relevant averaging periods are less than the applicable significant impact levels, which conclusion is also confirmed by Mr. Garrison, the air quality consultant retained by the State Agencies.¹⁴ Therefore, because the maximum impacts are less than the significant impact levels for all pollutants, no additional steps need be taken to demonstrate compliance with PSD increments and NAAQS for any regulated pollutant, according to Mr. Paul. He also confirms, however, that NO_x and VOCs are subject to LAER review in this case, and he has concurred with the Applicant's LAER proposals for these emissions. He notes that Catoctin will be required to secure the emissions offsets for NO_x and VOC in the ratio of 1.3 to 1, with projected potential NO_x emissions from the Catoctin Power project of 191.7 tons per year and projected potential VOC emissions constituting 30 tons per year. Therefore, Catoctin must obtain offsets for NO_x of 249 tons, and offsets for VOC of 39 tons. He states that under Maryland regulations the offsets may be obtained from sources within the ozone nonattainment area in which the proposed facility will be located, or from another ozone nonattainment area, if the area has an equal or higher nonattainment classification than the area in which the source is located. He further states that the Maryland Department of the Environment prefers in-State sources of offsets; however, offsets may come from other emissions sources outside of Maryland

¹⁴ Paul Direct Testimony, PPRP Exhibit No. 5, at p. 13 (filed November 24, 2004, Docket Entry No. 58).

that are the same or higher ozone nonattainment classification area and that are located in the broad vicinity of the proposed new source. These offsets must be demonstrated to ARMA's satisfaction from an acceptable source prior to issuance of air quality approvals.

As noted above, the State Agencies and Catoctin have reached a Stipulation and Settlement Agreement with numerous agreed conditions, which conditions include specified limits on emissions as well as other enumerated conditions affecting air quality issues. The State Agencies support the grant of the application with the proposed conditions, as they have concluded the site for the proposed Catoctin facility is suitable, provided that the State's recommended conditions are incorporated into the CPCN. Furthermore, the State Agencies state the project will meet State and federal environmental requirements with an adequate margin of safety to protect the public's health and safety, and the State Agencies conclude that the project will meet all requirements of the Clean Air Act by observing the recommended conditions, provided the offsets are obtained and approved by the Air and Radiation Management Administration ("ARMA") of the Maryland Department of the Environment prior to construction. The State Agencies, through PPRP, further argue in their final comments on brief that the State already has an extensive and reliable monitoring network, and therefore PPRP does not consider additional monitoring stations proposed by intervenor Donald L. James to be necessary in this matter, which issue will be discussed further below.

Upon consideration of the record, I find the Applicant and State Agencies have presented substantial testimony in full support of the project's satisfying applicable air quality standards which testimony has not been contradicted, although the issue of additional monitoring stations will be discussed further below.

3. Water Concerns

The final major area of concern with respect to project effects concerns water usage, as large quantities of water are needed by the facility for cooling purposes. The record reflects the plant's total average daily water use is estimated to be 2.58 million gallons per day ("MGD"), of which 2.43 MGD will be needed as cooling tower water while 0.14 MGD will be County-supplied potable water used for other purposes. This project is unique in that the Applicant proposes authorization for two alternative water supplies, one utilizing Frederick County waste water as a prime cooling source in the event that Catoctin and Frederick County reach agreement for such use of County effluent, while the alternative water supply involves obtaining water directly from the Potomac River as the source.

As of the close of record in this case, Frederick County has not provided approval for Catoctin to use the County's waste water as the water cooling source, although Frederick County has proposed various conditions in the event that such a water option is effectuated. This option appears to be the preferred option of the Applicant, as well as the State Agencies, as PPRP notes the use

of reclaimed water would avoid certain impacts associated with construction of water supply lines, including impacts to the Chesapeake and Ohio ("C&O") Canal national historical park, as well as avoiding impacts associated with withdrawal of water from the Potomac River.

Residents commenting at the public hearing and in written comments also reveal concerns with the use of water supply and the affect on the Potomac River, but the Applicant has reached agreement with the water suppliers and has proposed to meet consumptive use regulations (COMAR 26.17.07) by providing upstream storage to augment river flow during low flow conditions or by reducing consumptive use to less than 1 MGD during low flow periods. The Company has also identified two potential facilities, a Millville quarry owned and operated by Aggregate Industries and the "Old Standard Quarry," which is an abandoned flooded quarry. The State Agencies have concluded that either quarry has sufficient capacity to provide the necessary storage, and the volume of water should be adequate to support the number and frequency of potential releases that may be required based on the recent and long-term history of river flow.

The record reflects that Catoctin and the water suppliers have entered into an agreement and defined the terms under which Catoctin will store water and make releases from the storage which agreement includes conditions to be incorporated into the CPCN. The State Agencies appear to accept the agreement with the addition of certain further conditions noted in the State

Agencies-Catoctin agreement. The State Agencies have also proposed a number of additional conditions in the event that Catoctin elects to use the effluent County water as the source of cooling water for the facility to ensure that reclaimed water is managed safely and does not pose any risk to human health and the environment. These conditions include monitoring of the reclaimed water to ensure that any pathogens that may remain in the effluent are destroyed prior to being used in the cooling system. The State Agencies also note that a condition (Condition No.51) provides for review of the water appropriations at a minimum of every three years, and therefore the State will be able to require whatever adjustments are necessary to meet the changes in environmental flow-by requirements.¹⁵

Upon review of the record with respect to the water use options, the evidence indicates that with the conditions agreed by Catoctin with the water suppliers and PPRP, the Applicant has proposed a sufficient source of water by either of the two alternatives that would have minimal effects upon the river and will fully protect the other users through the augmentation and restriction proposals. Accordingly, I find the record indicates that concerns of commentators with respect to the effects on water supply are

¹⁵ Such a condition will address a concern addressed at the public evening hearing to allow future adjustments in flow-by requirements. Another concern expressed at the evidentiary hearing was to require complete resolution of the water supply source prior to commencement of any construction of the project. In its brief, PPRP does not consider such a condition necessary as the site location adjacent to an industrial facility confines the impact of commencement of construction, and the Applicant is not likely to commence significant construction if a viable water supply is not arranged. Accordingly, no such condition will be adopted, although the plant may not operate until the water supply is finalized.

adequately addressed by the Company's proposal and conditions of the PPRP and water suppliers, while the additional water supply conditions with respect to use of effluent of Frederick County will be discussed below.

4. Other Impacts

The record further contains evidence by witnesses for both Catoclin and the State Agencies on other aspects of the proposal indicating the project will have minimal other impacts, especially as it is located on an industrial site as noted above. For example, the record reflects minimal cultural impacts as no known archaeological sites in or around the proposed project area have been identified in the approximately 20 acres affected by the facility, and visual impacts will also be mitigated by additional screening. Also, the property is located next to a large existing industrial plant of nearly the same height which would mitigate the marginal visual impact of the facility on existing neighboring properties. The record further indicates minimal noise impacts as the facility will operate in compliance with applicable State and local noise regulations provided that major construction activities are limited to certain hours.