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DOCKET
01-AFC-7C
DATE APR 13 2007
RECD. APR 13 2007

April 13, 2007

Mr. Lance Shaw
Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Applicant's Comments on Preliminary Staff Assessment, Part 1
Russell City Energy Center Amendment No. 1 (01-AFC-7C)

Dear Mr. Shaw:

Attached are an original and 12 copies of the document titled *Applicant's Comments on Preliminary Staff Assessment, Part 1* filed in support of the Petition for Amendment No. 1 for the Russell City Energy Center, Hayward, California (01-AFC-7C).

If you have any questions about this matter, please contact me at (916) 286-0278.

Sincerely,

Douglas M. Davy, Ph.D.
AFC Project Manager

Attachment

cc: M. Argentine
G. Wheatland

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

Amendment to the APPLICATION FOR CERTIFICATION OF THE RUSSELL CITY ENERGY CENTER POWER PLANT PROJECT

DOCKET NO. 01-AFC-7C
PROOF OF SERVICE
(REVISED 4/9/07)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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DECLARATION OF SERVICE

I, Jeannette Harris, declare that on April 13, 2007, I deposited copies of the attached Applicant's Comments on Preliminary Staff Assessment, Part 1 filed in support of the Petition for Amendment No. 1 for the Russell City Energy Center, Hayward, California (01-AFC-7C) in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.
I declare under penalty of perjury that the foregoing is true and correct.

Jeannette Harris
[signature]

Russell City Energy Center Amendment No. 1 (01-AFC-7C)

Applicant's Comments on Preliminary Staff Assessment, Part 1

Biological Resources

Page 4.2-3, para 5, line 11, "This gap could serve to funnel the noise to the sensitive area without achieving the fully anticipated decrease in noise levels."

Comment: We request that this sentence be deleted. A constricted passage, such as a gap between two structures, does not increase or "funnel" noise levels (in the way that a constriction would increase the velocity and decrease the pressure of an air flow), as implied in this comment. Even though there is a gap between the two warehouse buildings, they still form an effective barrier to noise from the project. Although sound waves will travel unimpeded through the gap between the buildings, this will restrict them to a narrow trajectory beyond the buildings (allowing for some expansion of the noise front beyond the buildings). The buildings will still effectively block noise to most of the area. Even with a gap between the structures, at the distance from the source to the potentially sensitive biological resources area (more than 800 feet), the noise levels caused by steam blows and pile driving will not cause significant adverse impacts to wildlife and a noise mitigation plan for construction is not necessary for these temporary project effects.

Condition BIO-4: "The BRMIMP shall identify…#3 A copy of the final approved Storm Water Management Plan to be implemented so sensitive wetland habitats in the project area will not be impacted by the RCEC"

Comment: It is no longer necessary to require that the BRMIMP include a copy of the Storm Water Management Plan because the reconfigured project will not discharge to sensitive wetlands. In addition, the Storm Water Management Plan stipulated in this condition is redundant with two other kinds of storm water management plans that are required in the Soil and Water conditions; namely, the Drainage, Erosion, and Sedimentation Control Plan (DESCP, formerly called the Grading Erosion and Sedimentation Control Plan) and the Storm Water Pollution Protection Plan (SWPPP), the preparation of which is required under the National Pollution Discharge Elimination System General Permit for construction and General permit for industrial operation. Condition BIO-9 (Storm Water Management Plan) formally requires the Storm Water Management Plan, and refers also to Condition SOIL & WATER-3, which requires preparation of the SWPPP for industrial operation.

Because the RCEC would not longer have a significant potential to impact sensitive wetland habitats and because the project is required to prepare a DESCP, construction SWPPP and operations SWPPP, we request that Staff delete Item #3 in BIO-4.

Condition BIO-8: Section 401 Clean Water Certification

Comment: Applicant requests that Condition BIO-8 be deleted, as it is no longer required in conjunction with the wetland permit application. The project would not fill wetlands.

The Staff Assessment, on page 4.2-4 states that Section 401 water quality certification from the San Francisco Bay Regional Water Quality Control Board would not be necessary because the project, as reconfigured, will use a zero liquid discharge system. Condition

SOIL& WATER-8 requests a Section 401 certification in conjunction with the project's tie-in to the Alameda County Public Works Agency's Flood Canal, or a letter saying that certification is not required.

Condition BIO-9: Storm Water Management Plan

Comment: Applicant requests that Staff delete this condition. There are no sensitive biological resources immediately offsite or downstream of the project's storm water runoff into the Alameda County Flood Control Channel, and a DESCP and construction and operation SWPPP are already required in the SOIL & WATER conditions (see discussion of BIO-4, above).

Condition BIO-12: Construction and Operation Noise Levels

Comment: Applicant requests that Staff delete this condition (see comment, above, on page 4.2-3, para 5, line 11). The project site is sufficiently far (more than 800 feet) from the sensitive biological resources habitats that noise from steam blows and pile driving will not cause significant adverse impacts. These are temporary construction impacts. Please also note that Condition NOISE-3 requires noise management measures be put in place for both construction and operation and Condition NOISE-4 requires that RCEC use steam blow methods that minimize noise.

Hazardous Materials Management

Condition HAZ-1: Hazardous materials and quantities

Comment: Please revise condition HAZ-1 to refer to Tables 3.5-1 and 3.5-2 of the Amendment, rather than Tables 8.5-3 and 8.5-6 of the AFC. The tables in the Amendment reflect a revised list of chemicals that will be used in the reconfigured project.

Condition HAZ-5: Sulfuric acid tank

Comment: Applicant requests changing the distance allowed for the transport of combustible or flammable materials near the sulfuric acid tank from 100 feet to 50 feet. The Uniform Fire Code was recently amended to change the distance requirement from 100 feet to 50 feet and in its most recent siting cases, Staff typically requires a distance of 50 feet. Consistent with the revised Uniform Fire Code and recent Commission decision, Applicant requests that Condition HAZ-5 be amended to require that flammable materials be stored 50 feet away from the project's sulfuric acid tanks, rather than 100 feet.

Conditions HAZ-8, -9, and -10

Comment: These conditions all refer to natural gas pipeline construction and operation. Please note that the pipeline will be constructed, owned, and operated by PG&E, not the Applicant. We therefore request a modification of these conditions such that they refer only to the portion of the pipeline that the Applicant will own and operate, which is the portion located on the Applicant's property (see suggested wording in the Amendment Petition). To ensure proper mitigation, the Commission may wish to add a condition similar to HAZ-12 for the IEEC Project:

> **HAZ-12** The project owner shall ensure that the construction, operation, and maintenance of the natural gas pipeline is done in compliance with Public Utilities Commission General Order 112-E and 58-A standards, and Federal Department of

Transportation (DOT) regulations, Title 49, Code of Federal Regulations (CFR), Parts 190, 191, and 192. Those portions of the natural gas pipeline that are owned by a regulated public utility which is subject to a substantively similar requirement shall not be subject to this condition.

Verification: At least 30 days prior to the construction of the gas pipeline, the project owner shall provide proof that the above regulations will be complied with to the CPM.

Noise

No comments.

Socioeconomics

No comments

Soil and Water Resources

Condition SOIL&WATER-1

Comment: Applicant requests that the Verification in the Commission's Decision be retained (except for changing the name of the Grading and Erosion Control Plan to Drainage, Erosion, and Sedimentation Control Plan). Staff's proposed Verification requires the Applicant to submit the DESCP to the City of Hayward for comment 90 days before site mobilization, obtain the City's comments, and then submit the DESCP and comments to the CPM at least 60 days before site mobilization. It may not be feasible for the City, however, to review the document in 30 days, putting the Applicant's construction schedule in potential jeopardy. In addition, the stipulation "the CPM shall consider the comments received from the City on the DESCP before issuing approval" is vague. Furthermore, there is no need in this condition to duplicate stipulations of Condition CIVIL-1 or to demonstrate approval by the CBO of this document. In addition, the requirement for monthly reporting is burdensome and duplicative. Project construction stormwater will be regulated under the General Industrial NPDES permit, subject to inspection by the City (Condition SOIL&WATER-2). A monthly report by the applicant will serve no useful purpose.

Condition SOIL&WATER-4

Staff's proposal to reduce the number of days per year the RCEC could use potable water as a backup supply in the case of *unavoidable* interruption in the supply of recycled water from the City's WPCF or the RCEC's on-site Title 22 facility is not supported by any evidence or analysis, is entirely arbitrary and is not based on any change in the project or any change in applicable LORS. Similarly, Staff's request to strike in its entirety the exemption for natural disasters is unreasonable and not in the public interest.

In addition, Staff's request to impose a limit of 4 AFY of potable water for sanitary and domestic purposes is arbitrary and is not predicated on any analysis or evidence, on any change in the project or any changes in LORS. There is no state or local standard that would authorize the Commission to limit or cap the use of potable water for potable and sanitary purposes. The Applicant's reference to 4 AFY of potable water was an estimate of anticipated average annual use, not a proposed cap on consumption.

Condition SOIL&WATER-6

Comment: The verification refers to the Eastshore Project and should refer to the Russell City Energy Center.

Transmission Line Safety and Nuisance

P 4.11-6, Audible Noise, line 11 – 345 V should be 345 kV.

Condition TLSN-1, Page 4.11-11 - Reference to Southern California Edison's EMF reduction guidelines is incorrect; should be PG&E. Also, Applicant has no control over PG&E's construction guidelines, since they will own the line.

Condition TLSN-4 - This is a standard condition, but Applicant will not have any control over anything within the ROW, since this will be PG&E's line.

Condition TLSN-5 - Grounding will be done by PG&E, not the applicant.

Transmission System Engineering

General Comment: For all facilities outside of the plant switchyard, the applicant does not have approval rights for the design and construction of those transmission facilities. These will be designed and built according to PG&E standards with oversight by the CPUC. The CBO does not exert authority over PG&E.

Page 5.5-5 Text describes the bus at Eastshore being "converted to a 3000-ampere double bus (main and transfer buses) arrangement."

Comment: The text goes on to correctly identify the new configuration as a breaker-and-a-half scheme. This section should be revised to reflect the breaker-and-a-half scheme only.

Worker Health & Safety

Condition WORKER SAFETY-2

Applicant agrees with Staff's proposed deletion of the requirement for Cal-OSHA Consultation Service to review and comment on the Operation Injury and Illness Prevention Plan, Emergency Action Plan, and Personal Protective Equipment Program. This should be indicated in redline-strikeout, for clarity.

Condition WORKER SAFETY-3 and -4

Staff proposes two new conditions. One condition would require the Project Owner to hire a Construction Safety Supervisor (WORKER SAFETY-3). The second condition requires the CBO to hire a Safety Monitor (WORKER SAFETY-4). The Staff Assessment acknowledges that "...there are no OSHA or Cal-OSHA requirements that an employer hire or provide for a Construction Safety Officer."

In the Commission's review of an Amendment to the Inland Empire Energy Center, the Staff similarly proposed two new safety positions. After discussion between the parties, the Staff and Applicant mutually agreed to a "refined formulation" that combined the two functions into one position and the Staff and Applicant jointly recommended a condition proposing a Safety Monitor. In agreeing to this refined formulation, the Staff stated that this condition did not differ substantively in actual effect from the condition it proposed

(*Commission Staff's Inland Empire Energy Center, LLC Errata And Amendments to Commission Decision Staff Analysis and Responses to Project Owner's Comments, June 20, 2005*, p. 5). This refined formulation was approved by the Commission (*Order Approving a Petition to Change to GE 107H Combined-Cycle Systems and Add Secondary Laydown/Parking Areas*, pp. 30-32).

In lieu of WORKER SAFETY Conditions 3 and 4, as proposed in the Staff Assessment, the Applicant proposes that the same condition regarding worker safety as jointly proposed by the Staff and Applicant and as adopted by the Commission for the IEEC be adopted for the RCEC. This condition is currently being employed in the construction of the IEEC and the Applicant finds that the Condition is working well. The condition is as follows:

> **WORKER SAFETY-3** The Project Owner shall ensure that a CPM-approved Safety Monitor(s) conducts an on-site safety inspection of the power plant at least once a week during construction of permanent structures and commissioning unless a lesser number of inspections is approved by the CPM. The CPM may also require a similar inspection and report concerning linear facilities.
>
> The Safety Monitor shall keep the Chief Building Official (CBO) fully informed regarding safety-related matters and coordinate with the CBO concerning on-site safety inspections, and the final safety inspection prior to issuance of the Certificate of Occupancy by the CBO. The Safety Monitor will be retained until cessation of construction and commissioning activities, and issuance of the Certificate of Occupancy, unless otherwise approved by the CPM.
>
> The Safety Monitor(s) shall also:
>
> - Correct any construction or commissioning problems that could pose a future danger to life or health, consulting with the CBO as necessary.
> - Have the authority to temporarily stop construction or commissioning activities involving possible safety violations or unsafe conditions that may pose an immediate or future danger to life or health, until the problem is resolved to the satisfaction of the Safety Monitor and/or CBO.
> - Consult with the CBO to determine when construction may resume unless the problem is corrected immediately, and to the satisfaction of the Safety Monitor and/or CBO.
> - Inform the CPM within 24 hours of any temporary halt in construction or commissioning activities.
> - Be available to inspect the site whenever necessary in addition to the minimum weekly basis during construction and commissioning as determined in consultation with the CBO and CPM.
> - Develop a safety program for the Project that complies with Cal/OSHA & federal regulations related to power plant projects.
> - Ensure that all federal and Cal/OSHA requirements are practiced during the construction and installation of all permanent structures (including safety aspects of electrical installations).
> - Ensure that all construction and commissioning workers and supervisors receive adequate safety training.
> - Conduct safety training (including fall protection, confined spaces, respiratory protection, hazard communication, etc.), or ensure that the Project owner, union hall, and/or contractors conduct adequate safety training.
> - Maintain all Material Safety Data Sheets, storage of all hazardous materials and all other required documentation for Cal/OSHA.

- Complete all accident and incident investigations, emergency response reports for injuries and inform the CPM of OSHA Recordable and Lost Time incidents.
- Ensure that all the plans identified in WORKER SAFETY-1 are implemented.

The Safety Monitor shall be qualified regarding the following:

- Safety issues related to equipment, pipelines, etc,
- LORS applicable to workplace safety and worker protection
- Workplace hazards typically associated with power production
- Lock out tag out and confined spaces control systems
- Site security practices and issues

Verification: The Project owner shall submit the Safety Monitor(s) resume(s) to the CPM for approval at least 30 days prior to site mobilization. One or more individuals may hold this position. The Safety Monitor shall submit in the Monthly Compliance Report a monthly safety inspection report to include:

- Records of all employees trained for that month (all records shall be kept on site for the duration of the Project);
- A summary report of safety management actions that occurred during the month;
- A report of any continuing or unresolved situations and incidents that may pose danger to life or health;
- Reports of OSHA Recordable and Lost Time incidents and injuries that occurred during the month.

The bulleted items of the newly proposed Conditions WORKER SAFETY-3 and -4 include suggested new condition text and should be underlined to indicate insertion.

Facility Design

Page 5.1-2. Reference to Riverside County is incorrect.