State Of California

Memorandum

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02-AFC-1
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The Resources Agency of California

Date: November 9, 2005
Telephone: (916) 654-4206

To: **BLYTHE ENERGY PROJECT PHASE II SITING COMMITTEE:**
Commissioner John L. Geesman
Presiding Member
Commissioner Arthur H. Rosenfeld
Associate Member

From: California Energy Commission -
1516 Ninth Street
Sacramento, CA 95814-5512

Lisa DeCarlo, Staff Counsel
Bill Pfanner, Project Manager

Subject: **Staff Response to the Presiding Member's Proposed Decision for the Bythe Energy Project Phase II (02-AFC-1)**

The following comments on the Blythe Energy Project Phase II (BEP II) Presiding Member's Proposed Descision (PMPD) are respectfully submitted by staff for consideration by the California Energy Commission. These comments are intended to maintain consistency with the factual testimony presented in staff's Final Staff Assessment (FSA).

Air Quality

1. Page 17, first paragraph after the bullets -- the date identified is for the PDOC, not the FDOC. The first sentence should read:

   "The Mojave Desert Air Quality Management District (MDAQMD) released its Final Determination of Compliance (FDOC) May 3, 2004."

2. Page 27, under PSD Review -- The PMPD currently states: "PSD regulations apply to the preconstruction review of stationary sources that emit attainment air contaminants. There will not be a significant increase in such emissions and therefore, the provisions of MDAQMD Rule 1703(a)(3) are not applicable to this project. (FDOC Page 36.)" Staff notes that there is no Mojave Desert Air Quality Management District (MDAQMD) "rule 1703"; 1703 happens to be the South Coast Air Quality Management District (SCAQMD) and Antelope Valley Air Quality Management District (AVAQMD) rule for PSD, and since the FDOC for this project doesn't have 36 pages as referenced, we are unable to ascertain the validity of the reference.

   Staff notes that the facility is subject to PSD Review, which is administered by U.S. EPA. Staff recommends that the paragraph under PSD review be removed and replaced with the following:

PROOF OF SERVICE (REVISED 8-1-05) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 11-9-05
efolinson

"PSD regulations apply to the preconstruction review of stationary sources that emit attainment air contaminants. In the MDAQMD, the PSD program is implemented by the U.S. EPA, and BEP II originally applied for a PSD permit in 2002. Because this federal permitting process is ongoing, and there remains a possibility of revised conditions, staff recommends a condition to ensure that future possible modifications will be coordinated. See Condition: AQ-C6."

Biology

3. Page 51, under Long-term Habitat Loss/Degradation heading -- Typographical error in acreage: "...the 76-acre site..." should be replaced with "...the 66-acre site...."

4. Page 59 – Mistakenly states that Western is the proponent of the DSWTP. It should instead state that the agency overseeing the DSWTP is the Imperial Irrigation District (IID).

5. Page 70, under LORS -- The state and local laws included on pages 4.2-2 and 4.2-3 of the FSA should be included in the PMPD. The list includes the Riverside County General Plan, the City of Blythe General Plan, and the state Fish and Game codes applicable to the construction and operation of BEP II. These should be included in addition to the LORS which were copied on page 70 of the PMPD.

6. Page 62, BIO-4, first paragraph -- Insert the word "closure" in the list of activities at the project site: " ...during site mobilization, ground disturbance, grading, construction, operation, and closure..."

7. Page 67-68, BIO-11 -- Please add "the Compliance Project Manager (CPM)" to the list of regulatory agencies in the first sentence for clarification.

   BIO 11: The project owner shall prohibit habitat disturbance in the Cultural resources Avoidance Area unless the Western Area Power Administration, U.S. Fish and Wildlife Service, the California Department of Fish and Game and the Compliance Project Manager (CPM) have given approval.

Cultural Resources

8. Page 74, fourth paragraph, second sentence -- Add the following underlined text: The recording and subsurface testing of CA-Riv-6725H recovered the information values that the deposit contained.

   Explanation: This paragraph currently suggests that recording and subsurface testing recorded all the information values for both sites (CA-Riv-6725H and CA-Riv-6370H) listed in the FSA. This is only true for CA-Riv-6725H and the site number will provide the clarity needed for this paragraph.

9. Page 74, fifth paragraph, first sentence -- Add the following underlined text:

The historic military use of the Blythe Army Air Base and/or the Desert Training Area has left refuse scatter, CA-Riv-6370H, consisting of landform modifications (grading, trenching, and push piles) with ~~few~~ many artifacts.

Explanation: A portion of CA-Riv-6370H was recorded and destroyed as part of the BEP I project. A portion of CA-Riv-6370H on the BEP II site that contains thousands of artifacts was fenced for protection until it could be appropriately evaluated. The change in the language characterizes the portion of the site that remains on the project site.

Hazardous Materials/Worker Safety

10. Page 108, under Mitigation --To maintain consistency with the changes to HAZ-1 proposed below, the first checked box should read, "The project owner shall only use those hazardous materials listed in Appendix B in quantities no greater than identified in Appendix C."

11. Page 111 -- Staff recommends that the PMPD be amended by going back to the FSA version of HAZ-1 as shown below.

    HAZ-1 The project owner shall not use any hazardous materials not listed in Appendix B, below, or in greater quantities than those identified by chemical name in Appendix C, below, unless approved in advance by the CPM.

    Verification:The project owner shall provide to the Compliance Project Manager (CPM), in the Annual Compliance Report, a list of hazardous materials contained at the facility.

    Explanation: The PMPD version of Condition Haz-1 only requires approval of the CPM when the project owner wants to use or store quantities of acutely(regulated) hazardous materials above the levels specified in 40 CF section 355.50. That would allow the project owner to use, store, or move any hazardous material it wishes - no mater how toxic or volatile and with no Off-site Consequence Analysis (OCA) required - as long as it was below the Federal thresholds, which are not as stringent as California ARP thresholds, and which are for only regulated (acutely hazardous) substances. Since the condition proposed by staff references two appendices contained in the FSA (Appendices B and C pp. 4.4-30 et seq.), these should be included in the Commission Decision in their entirety.

12. Page 114 -- At the Prehearing Conference, staff and applicant agreed to the following language for HAZ 11, and recommends that it replace the FSA version currently reflected in the PMPD:

    HAZ-11 The project owner shall install an ammonia sensor on the discharge from the scrubber on the anhydrous ammonia refrigeration unit containment building that can be remotely read in the power plant control room and remotely read by a laptop computer operated by power

plant personnel, the Blythe Fire Department and the Riverside County Fire Department. This sensor and all other sensors located inside the containment building shall be able to detect ammonia concentrations within a range of at least 10 to 20,000 ppm and shall be reported to the power plant control room on a real-time recordable basis. Additionally, the project owner shall:

1. Perform a process safety evaluation of hazards associated with the chilling system and provide anhydrous ammonia release prevention features for the chilling system equipment and containment structure to enhance the safety of operators and emergency response personnel;

2. require that any routine maintenance or repair work on the anhydrous ammonia refrigeration unit is conducted only during normal daytime work hours;

3. require that maintenance or repair on any filter train be conducted only under lockout/tagout safety procedures;

4. provide handheld ammonia vapor detectors and direct that they be used by workers whenever entering the ammonia refrigeration unit containment building; and

5. conduct joint training and exercises at least annually with the Blythe Fire Department, the Riverside County Fire Department, the Riverside County Hazardous Materials Response Team, the Blythe Police Department, and site staff.

Verification:At least sixty (60) days prior to delivery of anhydrous ammonia to the facility, the project owner shall provide the final design drawings and specification for the above systems, the results and recommendations of the process safety evaluation of hazards associated with the chilling system, and an agreement with the Blythe Fire Department, the Riverside County Fire Department, the Riverside County Hazardous Materials Response Team, and the Blythe Police Department to conduct joint training and exercises with site personnel at least annually to the CPM for review and approval.

Land Use

13. Page 128 -- Mistakenly states that Western is the proponent of the DSWTP. It should instead state that the agency overseeing the DSWTP is the Imperial Irrigation District (IID).

14. Page 131 – Land-4 should be corrected to refer to an "avigation" easement.

Noise and Vibration

15. Page 140 – Erroneously states that BEP II *would* be connected to DSWTP. Since the applicant may pursue other interconnection options, could is more appropriate.

16. Page 141, NOISE-1, Verification, line two -- The words "signed by the Project Manager" should be included between "statement" and "stating" as reflected in the FSA.

Socioeconomics

17. Page 165, SOCIO-2 -- Staff recommends the following language as verification:

    Verification: 60 days prior to construction, the project owner shall provide a copy of the plan to address the farming sector economic impacts from the WCOP to the Compliance Project Manager (CPM) for review and approval. The project owner shall provide proof that the fund has been fully paid in the next Monthly Compliance Report following the payment.

Traffic and Transportation (Aviation Safety)

18. Page 186 – Reference to May 17, 2005 letter to Florida Power and Light erroneously refers to the Executive Director. The reference should be corrected to reflect that Deputy Director Terry O'Brien was the author of the letter.

19. Page 190 -- the PMPD states that the Commission "shall retain jurisdiction to impose, or as appropriate, seek the FAA's imposition of alternate or additional measures if circumstances warrant." Staff notes that the Commission automatically retains jurisdiction over the project and implementation of the conditions of certification. Staff believes that certain aspects of this statement need to be clarified, such as what process the Commission would use to seek implementation of additional measures and in what timeframe. Would it be left up to the project owner to file for an amendment of the condition or does the Committee envision a different process? If a process different from the standard amendment or compliance process is envisioned, staff suggests that it be identified in a condition of certification to ensure that it can be implemented should the need arise.

20. Page 191 -- Mistakenly states that Western is the proponent of the DSWTP. It should state instead that the agency overseeing the DSWTP is the Imperial Irrigation District (IID).

Visual

21. Page 216 -- Condition VIS-3 should be included as stated in the FSA because it is the only condition that ensures the restoration or clean-up of construction-related surface disturbance not covered by condition BIO-5. This includes cleaning up construction debris and replacing/repairing surface areas and vegetation damaged during construction (e.g. sidewalks, driveways, fences, trees and shrubs) to a pre-project condition. While Condition BIO-5 is focused on restoration of natural areas, Condition

VIS-3 is focused on restoration of man-made landscape features. Both are necessary to ensure that the site is sufficiently restored after construction.

Staff recommends adding VIS-3 to the PMPD as follows:

> VIS-3 The project owner shall remove all evidence of the temporary construction activities and shall restore the ground surface to the original or better condition, including the replacement of any vegetation or paving removed during construction where project development does not preclude this activity. The project owner shall submit to the CPM for review and approval a surface restoration plan, the proper implementation of which will satisfy these requirements.
>
> Verification: At least 60 days prior to the start of commercial operation, the project owner shall submit the surface restoration plan to the CPM for review and approval. If the CPM notifies the project owner that any revisions of the surface restoration plan are needed, the project owner shall submit to the CPM a plan with the specified revisions within 30 days of receiving that notification.
>
> The project owner shall complete surface restoration within 60 days after the start of commercial operation. The project owner shall notify the CPM within seven days after completion of surface restoration that the restoration is ready for inspection.

Waste Management

22. Page 229 – In Waste-6, staff recommends amending the text as follows:

> WASTE-6 Prior to any earth moving activities, employees involved in ~~excavation~~ earth disturbance for construction purposes shall receive hazardous-waste-related training that focuses on the recognition of potentially contaminated soil and/or groundwater and contingency procedures to be followed as specified in WASTE-2 above. Training shall comply with Hazardous Waste Operations (8 CCR 5192) and Hazard Communication (8 CCR 5194) requirements as appropriate.

Explanation: The term "excavation" is too narrow and would exclude workers involved in other potentially at-risk activities from receiving the necessary training. The language proposed by staff would sufficiently limit training to those employees necessary.

Water Resources

23. Page 234. Staff recommends the following edits to clarify that the operational plans recommended by staff addressed sediment removal:

> Following discussions between the Applicant and Staff, the parties agreed that BEP II would monitor accumulated sediment levels as part of their Drainage, Erosion, and Sediment Control Plan, and that removal of accumulated sediments in the retention basin is the responsibility of the BEP I project owner. (8/2/05 RT 4:18 – 5:4)

24. Page 239 -- Condition of Certification Water Quality-5 should be modified as follows to reflect the use of RWQCB permitted evaporation ponds for discharge of wastewater during periods of ZLD outages:

    A liquid wastewater discharge either on or off-site is prohibited <u>with the exception of the temporary discharge of wastewater to evaporation ponds permitted by the RWQCB via the issuance of Waste Discharge Requirements during periods of ZLD system outages.</u>

25. Page 241 – In various locations the PMPD states that the originally proposed evaporation ponds have been replaced with a zero-liquid discharge (ZLD) system. However, the evaporation ponds will still be constructed and operated to accept contaminated stormwater from the oil-water separator, and will also receive process/blowdown waste in the event of a failure of the ZLD system. Discharge of any industrial wastewater to these evaporation ponds, which constitutes a waste discharge to land, requires Waste Discharge Requirements (WDRs) from the Regional Water Quality Control Board (RWQCB) for a legally permitted discharge.

    WDRs issued by the RWQCB are necessary whether the evaporation ponds are a primary or a back up means of wastewater disposal. Staff recommends that to ensure compliance with LORS and avoid significant impacts associated with any industrial wastewater discharge to the evaporation ponds, that staff's FSA Condition of Certification S&W 5 be included in the final decision in the same manner similar Conditions Of Certification have been included for other projects discharging waste to land (WDRs), to receiving waters (NPDES permits), or to Wastewater Treatment Plants (Industrial Wastewater Discharge Permits).

    Staff recommends adding S&W-5 from the FSA to the PMPD as follows:

    <u>WATER QUALITY-7: The project owner shall comply with all of the requirements of the RWQCB to discharge wastewater to the project's evaporation ponds. The project owner shall follow RWQCB Waste Discharge Requirements (WDRs) for these ponds, and shall not discharge any waste to the evaporation ponds without final WDRs in place. The project owner shall report to the CPM any notice of violation, cease and desist order, cleanup and abatement order, or other enforcement action taken by the RWQCB related to the WDRs. The project owner shall describe all actions taken to correct violations and operate the project in compliance with WDRs permit conditions. The project owner shall provide confirmation from the RWCQB that any violations have been resolved to the satisfaction of the RWQCB.</u>

    <u>Verification:Final RWQCB WDRs must be received by the CPM prior to start of commercial operation and/or discharge of waste to the ponds. The project owner shall report violations and the final resolution of the violation within 10 days of notice by the RWQCB.</u>

26. Page 244 – According to the record, maximum water use by the project would be 3,000 gpm, not 3,300 gpm as written in the first two paragraphs.

27. Page 263 -- the PMPD states, "Given that we do not find the use of groundwater causes a significant impact, dry cooling is neither environmentally nor economically reasonable for this project." Additionally, on page 264 the PMPD states, "Given that wet cooling causes no adverse impacts, dry cooling is not preferable." These statements are confusing in that they appear to tie the determination of conformance with state water policy as reflected in the Energy Commissions Integrated Energy Policy Report and elsewhere with whether there is an environmental impact associated with the project's proposed water use. The discussion of state water policy in the 2003 IEPR does not require that an environmental impact resulting from a project's proposed use of water must occur before the Commission may find that an alternative water supply or technology is economically sound and environmentally desirable. Staff requests that the above referenced statements in the PMPD be rephrased to make clear that the Committee is not here concluding that the determination of whether "alternative water supply sources and alternative cooling technologies are shown to be 'environmentally undesirable' or 'economically unsound'" depends on whether the proposed use of water results in a significant environmental impact. Such a finding is not a prerequisite to implementing the policy.

Efficiency

28. Page 285: Paragraph 2, line 2: After "...BEP II power plant to generate ..." add the words "baseload and".

29. Paragraph 3, line 2: After "...with a chilled water" add the words "or an evaporative".

Facility Design

30. Page 290, bottom box, paragraph 1, line 1: Change "Major structures and equipment" to "Major structures, systems and equipment".

31. Page 292, first complete paragraph, line 3: Delete ", environmental protection or the operational reliability of the project".

32. Page 292, third complete paragraph, line 6: Add "/or" to "and".

33. Page 292, fourth complete paragraph, line 8: Add "subject to CBO review and approval shall" to "no element of construction".

34. Page 292, last incomplete paragraph, line 2: Change "with construction activities" to "in scheduling construction activities".

35. Page 292, last incomplete paragraph, line 3: Add "subject to CBO review and inspection" to "permanent facilities".

36. Page 292, last incomplete paragraph, line 3: Add "or correct" to "difficult to reverse".

37. Page 293, first incomplete paragraph, line 2: Add "subsequent" to "the CBO's".

38. Page 293, last complete paragraph, last line: Delete "the environment and".

39. Page 293, last incomplete paragraph, line 1: Change "CBC," to "California Building Standards Code (CBSC)".

40. Page 294, first incomplete paragraph, lines 2 and 3: Change in both places "CBC" to "CBSC".

41. Page 294, first complete paragraph: Delete the last two sentences starting with the words "The dynamic lateral" and ending with the words "Section 1629".

Reliability

42. Page 312, paragraph 1, line 1-2: Change the sentence "In 1999, NERC reported an availability factor of 91.49 percent for combined cycle units of all sizes." to "In 2005, NERC reported an availability factor of 89.00 percent for combined cycle units of all sizes, for the years of 1999 through 2003."

Transmission Line Safety & Nuisance

43. Page 323-325 – In several instances mistakenly states that Western is the proponent of the DSWTP. It should state instead that the agency overseeing the DSWTP is the Imperial Irrigation District (IID).

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

IN THE MATTER OF: APPLICATION FOR CERTIFICATION FOR THE BLYTHE II ENERGY PROJECT	DOCKET NO. 02-AFC-1 **PROOF OF SERVICE LIST** **[REVISED 8/1/05]**

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*Also send a printed **or** electronic copy of all documents to each of the following:*

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DECLARATION OF SERVICE

I, **Evelyn M Johnson,** declare that on November 9, 2005, I deposited copies of the attached **Staff Response to the PMPD for Blythe Energy Phase II**, in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct.

Evelyn M Johnson
[signature]

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