State Of California

Memorandum

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The Resources Agency of California

Date: April 27, 2007
Telephone: (916) 653-1245

To: Jackalyne Pfannenstiel, Presiding Member
James D. Boyd, Associate Member

From: California Energy Commission – James W. Reede, Jr., Ed.D
1516 Ninth Street Project Manager
Sacramento, CA 95814-5512

Subject: **VERNON POWER PLANT PROJECT (06-AFC-4) STATUS REPORT #3**

Pursuant to the Committee Scheduling order, the following is staff's third status report on the proposed Vernon Power Plant project (VPP).

Staff filed Round #3 Data Requests on April 24, 2007, in the areas of transmission systems engineering and waste management. Staff conducted a workshop on April 18, 2007, to discuss responses to the Round #2 Data Requests and to also work toward resolution of outstanding issues previously identified in the October 6, 2006, Issues Identification Report.

Intervenor Communities for a Better Environment participated in the workshop to address the applicant's responses to its 87 data requests in the technical areas of air quality, alternatives, hazardous materials management, public health, socioeconomics, traffic and transportation, and water. The applicant's responses were of interest to staff. After further review of all responses, staff may seek additional information for a complete analysis.

ISSUES UPDATE

COOLING TOWER PLUMES

Staff is continuing to analyze the potential traffic safety issues resulting from intermittent ground-hugging plumes that were previously identified. During the April 18th workshop, staff provided and discussed the preliminary plume analysis results that quantified the number of hours and predicted plume dispersal patterns. The applicant, in its Status Report #2, had previously rejected staff's mitigation suggestions of moving the cooling tower to the south end of the project site and/or installing plume abatement technology. After the staff presentation, the applicant acknowledged the potential plume-related significant impacts to traffic, and agreed to analyze potential mitigation measures and alternatives to resolve this issue.

Staff still has concerns regarding an additional plume issue. The owner of a food production facility adjacent to the proposed VPP wrote to the Energy Commission on November 27, 2006, and spoke during the April 18th workshop, expressing concerns about potential significant impacts of the cooling tower plume and vapor drift related to health, safety, and contamination of the food production process. The applicant has not addressed the potential impacts of the cooling tower plumes on the food processing plant in question nor on the eight other food processing facilities which are nearby (less than 1000 feet). Should the applicant accept staff's mitigation suggestions

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of moving the cooling tower to the south end of the project site and/or installing plume abatement technology, the issue of plume impacts may be resolved. This issue will be discussed in detail in the PSA with the appropriate recommendations.

AIR QUALITY

The South Coast Air Quality Management District (District) issued its proposed amendments to Rule 1309.1 – Priority Reserve on April 12, 2007. These rules, if enacted at the District's Board meeting on July 13, 2007, would limit the size of power plants eligible for Priority Reserve emission reduction credits (ERCs) in certain areas to an output no greater than 635 MW. The areas in question are the District's Zone 3 and Environmental Justice Areas (EJA) which are generally communities with a substantial low income and / or minority group population. The VPP falls into an EJA, encompassing the communities of Huntington Park, Maywood, Commerce, and Southgate. If the rule is approved by the District, the applicant would not have access to any Priority Reserve credits for air quality impacts mitigation at its proposed rating of 943 MW (gross generation capacity). The applicant was asked their intent at the April 18th workshop, and they replied that they did not intend to reduce the size of the project at this time and expressed their desire to have the District's proposed rule revised to accommodate the size of the proposed facility.

During the April 18th workshop, the District indicated that they would not be issuing the Preliminary Determination of Compliance until after the District Board's decision on the amendments to the Priority Reserve Rule 1309.1.

PUBLIC HEALTH

Energy Commission staff is continuing to analyze public health studies to fully characterize potential impacts to the communities surrounding the City of Vernon. The California Air Resources Board (CARB) staff is now reviewing the project's Health Risk Assessment after their comment letter revealed that CARB staff had inadvertently used the Health Risk Assessment data associated with the previously proposed and withdrawn Vernon 630 MW project.

WASTE MANAGEMENT

On March 27, 2007, the Department of Toxic Substances Control (DTSC) filed a comment letter with the Energy Commission upon completion of its review of the Phase II Environmental Site Assessment that had been submitted by the applicant as a response to a data request. A number of contamination issues were raised along with concerns regarding appropriate remediation of the site.

Staff from the DTSC Permitting and Corrective Action Branch participated in the April 18th workshop. DTSC staff indicated that the City of Vernon's Environmental and Public Health Department does not possess the required and appropriate Certified Unified Participating Agency (CUPA) status required for public entities involved in toxic waste remediation activities. The City acknowledged their lack of appropriate CUPA certification. Certification is required for the City to be eligible to review their own corrective action projects or approve Remedial Action Plans for soil

or groundwater contamination as required by DTSC and / or the Regional Water Quality Control Board (RWQCB).

DTSC staff informed Energy Commission staff on April 25, 2007, that DTSC may initiate enforcement action within the next 30 days if the applicant does not respond promptly to the March 27th comment letter and acknowledge DTSC's jurisdiction and oversight for the balance of remediation activities. The applicant will need to provide a schedule and workplan for contaminated soil and groundwater remediation activities with oversight by DTSC and the RWQCB.

Energy Commission staff has issued data requests to gather the information requested by DTSC. The applicant has asserted that the Energy Commission does not have jurisdiction regarding site remediation. However, it acknowledged during the April 18th workshop that given the degree of characterized site contamination, the remediation activities may continue for a number of years after the City takes possession of the property and should the project be approved, come under Energy Commission jurisdiction.

STATUS OF DISCOVERY

Some of the issues identified in previous staff filings, with the exception of air quality, public health, transmission system engineering, waste management, and cooling tower plumes have been addressed. Staff has issued data requests for additional information from the applicant regarding outstanding issue items in the waste management and transmission system engineering areas and expects to receive them in late May.

SCHEDULE

The progress on the PSA has currently slipped by approximately five months due to lack of timely receipt of information. Given the estimated issuance in late July of the PDOC by the South Coast Air Quality Management District, the schedule for filing of the PSA is estimated to be late August, an overall eight month slippage. This is predicated upon the applicant filing complete data responses by late May, and receipt of preliminary determinations from all local, state, and federal agencies, including the Preliminary Determination of Compliance from the District.

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

APPLICATION FOR CERTIFICATION FOR THE VERNON POWER PLANT PROJECT BY THE CITY OF VERNON	**DOCKET NO. 06-AFC-4** **PROOF OF SERVICE LIST** **(REVISED 3/12/07)**

INSTRUCTIONS: All parties shall (1) file a printed, original signed document plus 12 copies OR file one original signed document and e-mail the document to the Docket address below, AND (2) all parties shall also send a printed OR electronic copy of the document, plus a proof of service declaration, to each of the entities and individuals on the proof of service list:

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DECLARATION OF SERVICE

I, Dora Gomez, declare that on April 27, 2007, I deposited the required copies of the attached Vernon Power Plant Project (06-AFC-4) Status Report #3 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. I declare under penalty of perjury that the foregoing is true and correct.

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.

Dora Gomez