

STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:)
Application for Certification) Docket No. 06-AFC-5
For the Panoche Energy Center)
_____)

Applicant's Response to Staff
Issue Identification Report

Staff issued its Issues Identification Report in the above-referenced proceeding on December 4, 2006. Staff raises several issues that may impede the ability of the Commission to issue a Final Decision in this matter in the prescribed one-year time period. In this response, Panoche Energy Center ("PEC") addresses each of the issues raised and comments on the Staff proposed schedule.

1. Land Use. Staff correctly points out that the power plant site is currently under a Williamson Act contract. A petition for partial cancellation of Williamson Act Contract No. 367 was filed by the landowner with Fresno County Department of Public Works and Planning Development Services Division on November 3, 2006. Staff is concerned that the "cancellation and the appeal period could delay the Energy Commission's certification process." (Issues Identification Report, page 7) The Applicant is working with the County to expedite the processing of the contract cancellation. We anticipate that the Fresno County Board of Supervisors will find the cancellation consistent with the Williamson Act and will approve the cancellation early enough to meet Staff's proposed AFC review process schedule.

2. Noise. Staff correctly points out that left unabated, PEC power plant operational noise levels at the two closest receptors, ML-2 and ML-1, located 800 feet North and 1,900 feet Northeast of the project site, respectively, would exceed the Fresno county nighttime noise limit (Issues Identification Report, page 7).

ML-2 consists of potentially three small residential buildings. The Applicant is working with the owner of these residences toward reaching an agreement whereby these receptors would not be used as a residence for the 20-year operational duration of the power plant. Under such an agreement, the Applicant will relocate the current residents to an acceptable location of sufficient distance from the proposed project site to eliminate the need for additional noise mitigation measures. The relocation will occur prior to the operational start-up of the power plant.

ML-1 consists of a five-unit, one-story residential complex. Given the added distance from the PEC site, these receptors would be affected to a lesser extent than those of ML-2. The Applicant is evaluating abatement designs that would limit noise levels at ML-1 to meet County standards. Meanwhile, it should be noted that Starwood Power – Midway, LLC (Starwood) filed an AFC with this Commission on November 17, 2006 (AFC 06-AFC-10). The proposed Starwood project will be located approximately 460 feet from ML-1 (Starwood AFC, Section 5.12.5.1). The Starwood AFC, in section 5.12.5.1, points out “A signed agreement is in place between the landowner of the 5-plex at ML-1 and Starwood-Power Midway, LLC to relocate the current residences.”

If Starwood implements its agreement with the landowner to relocate the residents at ML-1, then PEC will not have to implement its abatement design. Conversely, if Starwood does not implement its agreement, PEC will be able to demonstrate compliance with the Fresno County noise standard.

3. Geology, Soils and Water. Staff is concerned that the EPA will not have approved the Applicant’s Class I Underground Injection Control permit application in time for the Staff to reflect this wastewater disposal method in their Final Staff Assessment. In its deliberations EPA the Applicant anticipates that EPA will approve the UIC permit early in 2007. However, in the event that EPA fails to approve the requested deep well injection proposal, or in the event that a permitted and installed UIC system does not meet operational needs, the Applicant will install a zero liquid discharge system. Details of this alternative waste disposal system will be provided in response to anticipated Staff data requests.

4. Schedule. Applicant has reviewed the schedule as proposed by Staff and believes it is reasonable. The Applicant is committed to submittal of timely and thorough responses to Staff’s data requests, so that Preliminary and Final Staff Assessments can be filed by Staff on or before the anticipated dates.

Respectfully submitted;

December 7, 2006



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CC: Proof of Service list

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PROOF OF SERVICE

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CALIFORNIA ENERGY COMMISSION

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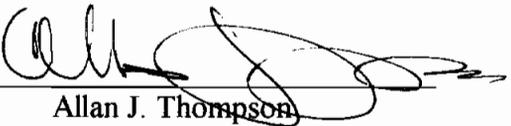
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DECLARATION OF SERVICE

I, Allan J Thompson, hereby declare that on December 7, 2006, I deposited copies of the attached *Applicant's Response to Staff Issue Identification Report*, in the United States mail at Orinda, California with first-class postage thereon fully prepaid and addressed to those identified on the above Proof of Service.

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

December 7, 2006
Date


Allan J. Thompson