

**LATHAM & WATKINS LLP**

650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626-1925  
Tel: (714) 540-1235 Fax: (714) 755-8290  
www.lw.com

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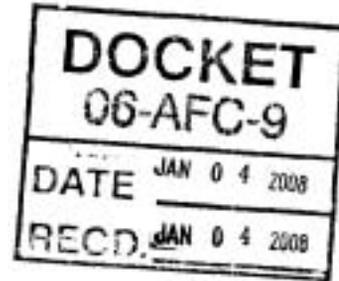
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January 4, 2008

File No. 030137-0008

**VIA FEDEX**

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 06-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, California 95814-5512



Re: Colusa Generating Station Project: Docket No. 06-AFC-9

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find a copy of the County of Colusa Land Use Approvals regarding the above-referenced matter.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the CEC's current electronic proof of service list.

Very truly yours,

Paul E. Kihm  
Senior Paralegal

Enclosure

cc: CEC 06-AFC-9 Proof of Service List (w/ encl. via e-mail)  
Michael J. Carroll, Esq. (w/ encl.)



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0440 FAX (530) 458-2035

## COLUSA COUNTY BOARD OF SUPERVISORS BOARD REPORT: General Plan & Zoning Amendments—September 18, 2007

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**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** GPA#07-2-1 (ED#07-48) / ZA#07-2-1 (ED#07-48)

**REQUEST:**

- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new parcel located on APN 011-040-024;
- 2) Amend the **zoning** classification from *Exclusive Agriculture* to *Industrial* on a new **parcel** located on APN 011-040-024;

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is to be located on 31-acres of a proposed 100-acre parcel located on the **Holthouse** Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in **Colusa** County, and approximately 1-mile west of the intersection of **Delevan** Road and **Dirks** Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a **new** parcel to be created of 100-acres.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.

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**STAFF COMMENT:** The County Planning Commission recommended, by unanimous vote, to the Board of Supervisors the following actions:

1. The Board of Supervisors approve an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
2. The Board of Supervisors approve an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on 50-acres of a proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on 50-acres of a proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

For a complete analysis of the project, please refer to the attached Planning Commission staff report.

**CEQA:**

The Board of Supervisors, in its deliberations, and prior to a decision on amending the general plan and zoning code, is required to make a CEQA decision.

CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments:

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:
  - (1) *The State Energy Resources Conservation and Development Commission*  
.....*
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. The CEC’s Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).
2. The CEC’s Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
  - a. The CEC’s Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).

**Section 2: General Plan Amendment Findings.**

1. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to a central portion of the 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.
  - d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan

and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]

2. The project is consistent with the General Plan land use designation for Industrial.
3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:
  - A. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.
  - B. Community Services: Objective (j) – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
  - C. Resource Conservation: Objective (i) – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
  - D. Economic Development: Objective (a) – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
  - E. Economic Development: Objective (f) – To encourage new industries which offer stable, year-round employment.
  - F. Economic Development: Objective (g) – To promote development which improves the local tax base.
  - G. Economic Development: Objective (j) -- To locate new industry in such a way that the impact on existing communities is minimized, and interference with agricultural operations is minimized.
  - H. Economic Development: Objective (s) – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

### **Section 3: Zoning Ordinance Findings:**

1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
2. The area to be rezoned to Industrial shall consist of a central portion of the 50-acres of the proposed new 100-acre parcel from a 451+/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.
4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**RECOMMENDED ACTIONS:**

Staff recommends that the Board of Supervisors approve the following actions, subject to the findings listed above, and conditions in Exhibit A:

1. Consider Notice of Exemption (NOE) for a statutory exemption to CEQA. Move to approve/certify a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
2. Consider/Adoption of Resolution amending the General Plan land use designation from Agriculture-General to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.
3. Consider First Reading of Ordinance amending Ordinance No. 534, to rezone a central portion of 50-acres of a proposed 100-acre parcel, from Exclusive-Agriculture to Industrial, for E & L Westcoast, LLC, on APN 011-040-024.

**EXHIBIT A**  
**GENERAL PLAN AMENDMENT**  
**&**  
**ZONING AMENDMENT**

**CONDITIONS OF APPROVAL:**

**General Plan Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. Approval of the amendment to the general plan land use designation from Agriculture-General to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.
3. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area redesignated to Industrial, shall retain its current general plan land use designation of Agriculture-General.
4. The approval of the amendment of the general plan land use designation from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
5. The approval of the amendment of the general plan from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.

## **Zoning Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the zoning classification from Exclusive-Agriculture to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area rezoned to Industrial, shall retain its current zoning classification of Exclusive-Agriculture.
4. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
5. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.
7. Approval of the amendment to the zoning classification from Exclusive-Agriculture to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: General Plan & Zoning Amendments [REVISED] – SEPTEMBER 10, 2007

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- APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.
- FILE #:** GPA#07-2-1 (ED#-07-48) / ZA#07-2-1 (ED#07-48)
- REQUEST:**
- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new 100-acre parcel located on APN 011-040-024;
  - 2) Amend the zoning classification from *Exclusive Agriculture* to *Industrial* on a new 100-acre parcel located on APN 011-040-024;
- GENERAL PLAN:** Agriculture General (current)
- ZONING:** Exclusive Agriculture (current)
- APN:** 011-040-024, -023, and -022
- LOCATION:** The proposed project site is to be located on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.
- PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a new parcel to be created of 100-acres.
- EXHIBIT A:** Conditions of Approval
- ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.

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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
2. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

### **Environmental Setting:**

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

### **ANALYSIS:**

*Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's, Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in which to assure this will be done is to require any additional power plants be required to apply for further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this site, is to recommend that only a central portion of 50-acres of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The surrounding portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

**General Plan and Zoning amendment(s):**

The current General Plan land use designation is Agriculture-General (A-G). Land carrying this designation is generally used for orchard and crop production. Residences in these areas are related to agricultural operations. Secondary uses in the A-G areas include oil and gas drilling, non-intensive recreation, agricultural industry (processing), and agricultural support uses, provided that these uses do not interfere with the viability of agriculture or create environmental hazards.

The current Zoning classification is Exclusive Agriculture (E-A). The E-A zone is intended to be applied in areas of fertile soils and areas where agriculture is the natural and desirable primary land use, and in which areas the protection of agriculture from the encroachment of incompatible uses is essential to the general welfare.

*Request for Industrial general plan land use designation and Industrial zoning classification.* The application for the Colusa Generating Station is for a land use activity that is inconsistent with the current General Plan land use designation of A-G and the zoning classification of the E-A zone. The applicant has, therefore, submitted the necessary applications requiring a general plan amendment and zoning amendment to an appropriate and consistent land use designation and zoning classification. The applicant has applied for an amendment to change the land use designation on a proposed 100-acre parcel to Industrial (I), and to amend the zoning classification to Industrial (M) zone. With approval of the general plan amendment and zoning classification amendment, the applicant's proposed project, the proposed use of the land for the construction and operation of a natural gas driven power plant, will be consistent with the new Industrial land use designation and zoning classification.

The project proposal, the construction of a 660 Mw power plant, is presently inconsistent with the County's General Plan land use element and Zoning Code. The appropriate manner in which to make the proposed project consistent with the County's land use regulations is to modify the land use designation and zoning classification. The CEC is looking to the County for its advice as to whether the County is interested in amending its general plan and zoning to provide for the power plant in its present proposed location. Hence, the applicant has submitted applications for a general plan amendment and zoning amendment.

**CEQA:**

The Planning Commission is not required to make CEQA findings or an environmental determination on a policy issue **recommendation** only. The Board of Supervisors, in its deliberations, and prior to a decision on amending the general plan and zoning code, is required to make a CEQA decision.

*Relationship of Authority between the California Energy Commission (CEC) and County Government.*

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*. . . the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

If a local agency (County) prefers not to approve a general plan amendment and zoning amendment wherein the proposed power plant would be consistent with local land use ordinances, the commission has the authority to approve the project anyway, with findings. The commission does not invoke its override authority frequently, but it does happen. The most recent example where the CEC invoked its override authority on zoning issues occurred in the October 2006 CEC decision on the Los Esteros project in the City of San Jose.

Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

## **FINDINGS:**

### **Section 1: General Plan Amendment Findings.**

1. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to a central portion of the 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.

- d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]
2. The project is consistent with the General Plan land use designation for Industrial.
  3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:
    - A. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.
    - B. Community Services: Objective (j) – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
    - C. Resource Conservation: Objective (i) – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
    - D. Economic Development: Objective (a) – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
    - E. Economic Development: Objective (f) – To encourage new industries which offer stable, year-round employment.
    - F. Economic Development: Objective (g) – To promote development which improves the local tax base.
    - G. Economic Development: Objective (j) -- To locate new industry in such a way that the impact on existing communities is minimized, and interference with agricultural operations is minimized.
    - H. Economic Development: Objective (s) – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

**Section 2: Zoning Ordinance Findings:**

1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
2. The area to be rezoned to Industrial shall consist of a central portion of the 50-acres of the proposed new 100-acre parcel from a 451+/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.

4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission, by resolution, recommend to the Board of Supervisors approval of the following actions, subject to the findings listed above, and conditions in Exhibit A:

- I. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation, from Agriculture-General to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.
- J. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification, from Exclusive-Agriculture to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.

**EXHIBIT A**  
**GENERAL PLAN AMENDMENT**  
**&**  
**ZONING AMENDMENT**

**CONDITIONS OF APPROVAL:**

**General Plan Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. Approval of the amendment to the general plan land use designation from Agriculture-General to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.
3. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area redesignated to Industrial, shall retain its current general plan land use designation of Agriculture-General.
4. The approval of the amendment of the general plan land use designation from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect if the California Energy Commission completes a Final Staff Assessment (FSA) with a recommendation by CEC staff to approve, and the California Energy Commission, based upon the FSA staff recommendations, approves, certifies, and licenses the Colusa Generating Station.
5. The approval of the amendment of the general plan from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures in the FSA that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.

6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.

### **Zoning Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the zoning classification from Exclusive-Agriculture to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area rezoned to Industrial, shall retain its current zoning classification of Exclusive-Agriculture.
4. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect if the California Energy Commission completes a Final Staff Assessment (FSA) with a recommendation by CEC staff to approve, and the California Energy Commission, based upon the FSA staff recommendations, approves, certifies, and licenses the Colusa Generating Station.
5. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures in the FSA that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.
7. Approval of the amendment to the zoning classification from Exclusive-Agriculture to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: Tentative Parcel Map – [REVISED] – SEPTEMBER 10, 2007

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**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** TPM#07-2-4 (ED#07-49)

**REQUEST:** Approve a Tentative Parcel Map to create a new 100-acre parcel on APN 011-040-024.

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451±-acres. Proposed project is to be located on a new 100-acre parcel to be created on APN 011-040-024.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.

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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Approve the request for a tentative parcel map creating a 100-acre parcel on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A Tentative Parcel Map is requested to divide a 451+/- acre parcel, APN 011-040-024, creating a new 100-acre parcel upon which the proposed Colusa Generating Station--power plant--will be constructed.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

**Environmental Setting:**

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The

surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

## **ANALYSIS:**

### **Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at: <http://www.energy.ca.gov/sitingcases/colusa/documents/index.html> This staff report incorporates by reference the CEC's Preliminary Staff Assessment.

The CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

### **Tentative Parcel Map:**

A tentative parcel map application has been submitted requesting a 100-acre parcel to be created from a 451+/- acre parcel, APN 011-040-024, part of the larger 4,800+/- acre Holthouse Ranch. The proposed power plant does not require all 451+/- acres of APN 011-040-024, therefore a land division of 100-acres is requested. The proposed project site is currently used for low density grazing and is separated from most irrigated crop land by the Glenn-Colusa Canal to the east.

The proposed siting of the power plant at this location is ideal for this specific land use for the following reasons:

- ◆ There is an existing industrial use, the PG&E Compressor Station, adjacent to the site to the east;
- ◆ The 400 and 401 underground natural gas lines, from Alberta, Canada, run north/south past the eastern entrance to the Compressor Station;
- ◆ Existing PG& E owned 230 Kv transmission lines run north/south on the eastern side of the Compressor Station, approximately 1800-feet east of the proposed power plant;
- ◆ The Glenn-Colusa Canal runs north/south approximately 2400-feet east of the proposed power plant;

- ◆ The Tehama-Colusa Canal runs north/south approximately 3200-feet west of the proposed power plant;
- ◆ The nearest residences is located approximately 1 ¼-mile from the proposed power plant;
- ◆ Interstate 5 is located approximately 5 miles to the east of the proposed power plant;
- ◆ The community of Maxwell is located approximately 5-6 miles to the southeast of the proposed power plant;
- ◆ The land is used for low density cattle grazing, with nonprime soils;
- ◆ Road access is provided by I-5, Delevan Road, McDermott Road, and Dirks Road. While specific road/bridge crossings shall require upgrading, all roads are in good condition.
- ◆ While environmental analysis shall be provided by the CEC's Staff Assessment, staff has walked the site and observed limited potential, physical environmentally-related characteristics of any value. The land surface features include some alkaline grassy features in the northern portion of the proposed 100-acre parcel, but there are no wetlands, riparian vegetation, or other such features that typically provide high biological/wildlife habitat value. The CEC's Staff Assessment shall provide a complete environmental analysis of these features, in addition to air quality, traffic, and water-related issues.

All of the above factors would support and make consistent the applicant's proposal with the County's policies -- encouraging energy development in proximity to existing resources and infrastructure.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed tentative parcel map is considered a project under the California Environmental Quality Act.

#### *Relationship of Authority between the California Energy Commission (CEC) and County Government.*

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*... the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the*

*thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:*

*(1) The State Energy Resources Conservation and Development Commission*

- ....
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

## **FINDINGS:**

### **Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. **The CEC's Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).**
2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
  - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).

### **Section 2: Tentative Parcel Map Findings:**

1. The proposed Tentative Parcel Map is consistent with the Goals and Policies of the Colusa County General Plan Land Use Element for both the current general plan land use designation of Agriculture-General and for an Industrial land use designation.

2. The project is consistent with the parcel size of 100-acres with the current zoning of Exclusive-Agriculture and with the proposed Industrial zoning classification.
3. The land division is properly correlated to slope, soil and other natural characteristics because the site has average slopes of 2% to 7% average and because the soils on the site are generally adequate for septic systems.
4. The design and improvements of the proposed tentative parcel map are consistent with County standards and policies because conditions of the project will ensure that County requirements are satisfied.
5. The project is physically suitable for the use and density of the proposed development because there is adequate level area on the proposed parcel for a 660 Mw natural gas fired power plant and accessory structures, as presented in the applications.
6. The design and improvements of the project will not cause public health or safety problems due to the CEC's Staff Assessment and mitigation measure requirements.
7. The project site does not contain any physical characteristics that could cause health or safety concerns.
  - (b) The design and improvements of the project will not conflict with easements acquired by any public entity or special district for access, drainage, or utilities.
  - (c) Approval of the project will not be detrimental to the general health, safety and welfare of the public because the mitigation measures identified by the CEC's Staff Assessment for the project shall be incorporated into the project as conditions of approval. The conditions must be satisfied as a necessary prerequisite or the final map will not be allowed to be recorded.

**RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve the following actions, subject to the findings listed above and conditions in attached Exhibit A:

- A. Consider Notice of Exemption (NOE) for a statutory exemption to CEQA. Move to approve a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- B. Consider the request for a tentative parcel map creating a 100-acre parcel on APN #011-040-024. Move to approve a tentative parcel map for E & L Westcoast, LLC, on APN 011-040-024, for a 100-acre parcel, subject to approval of the general plan and zoning amendments by the Board of Supervisors.

**EXHIBIT A  
TENTATIVE PARCEL MAP**

**I. CONDITIONS OF APPROVAL**

1. The Parcel Map shall conform to the configuration shown on Tentative Parcel Map #07-2-4 submitted and on file at the Colusa County Department of Planning & Building and as approved by the Colusa County Planning Commission. Major revisions to the Parcel Map as determined by the County Surveyor shall not occur without prior formal approval by the Colusa County Planning Commission.
2. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
3. The applicant and its successors in interest shall comply with all other applicable federal, state, and local statutes, ordinances, and regulations.
4. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
5. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
6. This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

**II. NOTATION:**

Minor changes may be approved administratively by the Directors of Planning & Building, Environmental Health, Public Works, or the Fire Chief upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification shall be made by each Department or division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: Use Permit – [REVISED] – SEPTEMBER 10, 2007

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- APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.
- FILE #:** UP#07-2-16 (ED#07-50)
- REQUEST:** Approval of a use permit to allow exemption to the County's height restrictions for industrial uses.
- GENERAL PLAN:** Agriculture General (current)
- ZONING:** Exclusive Agriculture (current)
- APN:** 011-040-024, -023, and -022
- LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.
- PARCEL SIZE:** Current parcel APN 011-040-024 is 451±-acres. Proposed project is to be located on a newly created parcel of 100-acres.
- EXHIBIT A:** Conditions of Approval
- ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.
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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Approve the request for a Use Permit to exempt project from County zoning height limitation standards.

## **PROJECT AND SITE DESCRIPTION:**

A Use Permit is requested to exempt the proposed power plant from the County's zoning standards which have a height limitation of 100-feet on land uses in the Industrial zone.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

### **Environmental Setting:**

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site.

Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

**ANALYSIS:**

**Use Permit:**

The objective of the project is to construct and operate a natural gas fired combined cycle power plant capable of providing nominal 660 Mw of electricity to the California electrical grid, with commercial operation planned by Spring 2010. Elements of the proposed project exceed allowable height limits in the County's zoning standards.

*CEC's relationship and role regarding County's Use Permit process.* While a use permit to provide an exemption to the County's height limitation in the Industrial zone is being requested by the applicant, such an action is subsumed by the California Energy Commission's certification process. The purpose and intent on the part of the applicant to submit a request for exemption to the County's height standard is to provide to the CEC the County's position on such a request. The use permit process allows the County to analyze and determine both the specific characteristics of the use permit request as well as consider and determine the project as a whole. The CEC staff is seeking advice from the County on whether it would approve the use permit were it the permitting agency for the power plant project. The applicant has submitted the request for a major use permit to assist the County in providing the requested advice. The County, in its effort to consider and determine both the specifics of the request for exemption to the height standard, and in the whole of the project with its multiple actions and entitlement requests, has required the applicant to submit separate applications for each action: general plan amendment, zoning amendment, tentative parcel map, and use permit.

The applicant has submitted a request for a major use permit which would provide an exemption from the zoning code's height limitation standard in the Industrial zone. The County's height standard for structures in the Industrial zone allows for a maximum height of 100-feet. The applicant proposes 29-features that will exceed the 100-foot height standard. A "Supplement to the Project Description" has been provided that delineates and describes the type and location of each feature. The following facilities that triggered the County's requirement for a use permit include the following:

<u>Equipment</u>	<u>Quantity</u>	<u>Height (feet)</u>	<u>Location Description</u>
Lattice Tower	12	100-to-125	4 of these towers would be within the 100-acre project site. 8 of these towers would be outside of the 100-acre site.
Take-Off Tower	6	120	All 6 of these towers would be located within the new switchyard and within the 100-acre site.

Monopole Tower	8	120	All 8 of these towers Would be located within The new switchyard and Within the 100-acre site.
HRSO Stack	2	175	These 2 stacks would be located within the power Plant and within the 100- acre site.
Air cooled condenser	1	144	The air cooled condenser would be located within the power plant and within the 100-acre site.

Most of these structures would be 120-foot tall towers associated with the new power plant switchyard and transmission line interconnection. The remaining structures would consist of a 144-foot tall air cooled condenser and two 175-foot tall heat recovery steam generators (HRSOs).

Of the 29-structures, eight (8) would be located outside of the 100-acre site and twenty-one (21) would be located within the 100-acre site. [See Plot Plan, dated October 4, 2006, for the location of these structures.]

**Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at: <http://www.energy.ca.gov/sitingcases/colusa/documents/index.html>

**This staff report incorporates by reference the CEC's Preliminary Staff Assessment.**

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The request for a Use Permit is considered a project under the California Environmental Quality Act.

*Relationship of Authority between the California Energy Commission (CEC) and County Government.*

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*... the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided

that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:  
(1) The State Energy Resources Conservation and Development Commission  
.....*
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be

the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).

- b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. The CEC's Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).
2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
    - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
  3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).

#### **Section 2: Use Permit Findings:**

1. The proposed use of the property will not impair the integrity and character of the zone in which the land lies, and that the use would not be unreasonably incompatible with, or injurious to, surrounding properties, or detrimental to the health, safety, and general welfare of the persons residing or working in the neighborhood, or to the general health, welfare, and safety of the County as supported by the following:
  - a. Mitigation measures provided in the CEC's Staff Assessment related to land uses, air quality, water, fire protection services, cultural resources, road and traffic, and other environmental issues shall result in the avoidance, reduction, minimization of potentially significant impacts to surrounding properties, or impacting the health, safety, and general welfare of persons living in the area. Mitigation measures addressing safety concerns related to fire protection and hazardous materials shall insure the general health and safety of the public.
  - b. The project would not be unreasonably incompatible with surrounding land uses with the incorporation of the CEC's Staff Assessment mitigation measures for the following reasons:
    - i. The proposed power plant will be situated next to and behind (to the west) an existing industrial use, the PG&E Compressor Plant;
    - ii. The Hothouse Ranch, consisting of approximately 4,800+/- acres, is used primarily for low density cattle grazing;
    - iii. The majority of soils is considered nonprime as per the California Department of Conservation's Map of Farmland Importance;

- iv. The geographical location and the site-specific geomorphology all minimizes any potential visual or aesthetic impact to the general public living in the wider general area, or from traffic from local roads or traveling north/south on Interstate 5;
  - v. Staff is recommending only 50-acres, or one-half the proposed request for a 100-acre parcel, be given an amended land use designation of Industrial and amended zoning classification of Industrial. This will assure that the applicant has sufficient acreage to encompass a building footprint of 31-acres for the power plant, plus ancillary uses, but also assures the County that no additional turbine/stack expansions or additions will occur on Industrial zoned land without the applicant having to come back and apply for additional land use entitlements.
2. The purpose of the exemption to the height limitation to allow the various power plant's infrastructure to be constructed according to engineered plans assures the air emissions shall be able to be emitted and exhausted appropriately, at specifically engineered emitted heights so that potential noxious materials may be adequately dispersed thereby avoiding a concentration of pollutants for consistent, lengthy, and frequent times within the nearby areas of the power plant.

**RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve the following actions, subject to the findings listed above and conditions in attached Exhibit A:

- A. Consider Notice of Exemption (NOE) for a statutory exemption to CEQA. Move to approve the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- B. Consider the request for a Use Permit to exempt project from County zoning height limitation standards. Move to approve a use permit for E & L Westcoast, LLC, on APN 011-040-024, exempting the applicant's project from the 100-foot height limitation on land zoned Industrial.

**EXHIBIT A  
USE PERMIT**

**DATE**

**UP #07-02-16  
PERMIT NO.**

**APN 011-040-024  
ASSESSORS PARCEL NO.**

Pursuant to the provisions of the Zoning Ordinance of the County of Colusa and the special conditions set forth below, **E & L Westcoast, LLC**, is hereby granted a Use Permit in accordance with the application filed to construct and operate a natural gas fired combined cycle power plant, exempting the power plant from zoning height limitation standards, on a central portion of 50-acres of a newly created 100-acre parcel on land currently identified as APN 011-040-024.

*Standard Conditions:*

1. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of this Use Permit, constitutes cause for the revocation of said permit in accordance with the procedures set forth in the Colusa County Zoning Ordinance, including Colusa County Code Section. 7.29.
2. Unless otherwise provided for in a special condition to this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use.
3. Minor changes may be approved administratively by the Directors of Planning and Building (Zoning Administrator), Environmental Health, Public Works or Fire Chief or their respective designee upon receipt of a substantiated written request by the applicant. Prior to such approval, verification shall be made by each Department or Division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment and be heard by the Planning Commission.
4. The use granted by this permit must be established within 12 months of the delivery of the countersigned permit to the Permittee. If any use for which a Use Permit has been granted is not established within one year of the date of receipt of the countersigned permit by the Permittee, the permit shall become null and void and re-application and a new permit shall be required to establish the use.
5. The terms and conditions of this permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors and assigns of the Permittee.

*Project-specific Conditions:*

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
3. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
4. This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

I hereby declare under penalty of perjury that I have read the foregoing conditions, that they are in fact the conditions which were imposed upon granting of this use permit, and that I agree to abide fully by said conditions.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Applicant

Note: Issuance of the Use Permit does not waive requirement of obtaining Building and Health Department permits before starting construction nor does it waive any other requirements.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Planning Commission Chairman



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: Master Staff Report – AUGUST 27, 2007

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**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** GPA#07-2-1 (ED#-07-48) / ZA#07-2-1 (ED#07-48) / TPM#07-2-4 (ED#07-49) /  
UP#07-2-16 (ED#07-50) / DA#-7-8-1

**REQUEST:**

- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new 100-acre parcel from APN 011-040-024; and
- 2) Amend the zoning classification from *Exclusive Agriculture* to *Industrial* on a new 100-acre parcel from APN 011-040-024; and
- 3) Approve a Tentative Parcel Map to create a new 100-acre parcel on APN 011-040-024; and
- 4) Approve a use permit to allow exemption to the County's height restrictions for industrial uses; and
- 5) Approve a Development Agreement between the applicant and its successor in interest and the County.

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Hothouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451+/- acres. Proposed project is to be located on a new parcel to be created of 100-acres.

- EXHIBIT I:**            Conditions of Approval
- ◆ General Plan Amendment;
  - ◆ Zoning Amendment;
  - ◆ Tentative Parcel Map; and
  - ◆ Use Permit.

- ATTACHMENTS:**
1. Copy of CEC's Preliminary Staff Assessment on CD
  2. Project Location Map;
  3. Applications for General Plan Amendment and Zoning Amendment-Component 1;
  4. General Plan and Zoning Designation Map;
  5. Application for Tentative Parcel Map-Component 1;
  6. Tentative Parcel Map;
  7. Application for Use Permit-Component 1, w/Supplement to the Project Description w/Table1;
  8. Plot Plan; and
  9. West Elevation Map; and
  10. South Elevation Map.
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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Recommend approval by Resolution to the Board of Supervisors the Certification of the Notice of Exemption (NOE) for a statutory exemption to CEQA.
3. Approve the request for a tentative parcel map creating a 100-acre parcel on APN 011-040-024.
4. Approve the request for a Use Permit to exempt project from County zoning height limitation standards.
5. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
6. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.
7. Recommend approval by Resolution to the Board of Supervisors the Development Agreement between the applicant and its successors in interest and the County.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

A Tentative Parcel Map is requested to divide a 451+/- acre parcel, APN 011-040-024, creating a new 100-acre parcel upon which the proposed Colusa Generating Station—power plant—will be constructed.

A Use Permit is requested to exempt the proposed power plant from the County's zoning standards which have a height limitation of 100-feet on land uses in the Industrial zone.

Approval of a Development Agreement (DA) is requested that provides the County and applicant with mutually-agreed benefits and assurances.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

#### **Environmental Setting:**

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediate surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

#### **ANALYSIS:**

##### Relationship of Authority between the California Energy Commission (CEC) and County Government:

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*. . . the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

The project proposal, the construction of a 660 Mw power plant, is presently inconsistent with the County's General Plan land use element and Zoning Code. The appropriate manner in which to make the proposed project consistent with the County's land use regulations is to modify the land use designation and zoning classification. The CEC is looking to the County for its advice as to whether the County is interested in amending its general plan and zoning to provide for the power plant in its

present proposed location. Hence, the applicant has submitted applications for a general plan amendment and zoning amendment.

*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

If a local agency (County) prefers not to approve a general plan amendment and zoning amendment wherein the proposed power plant would not be consistent with local land use ordinances, the commission has the authority to approve the project anyway, with findings. The commission does not invoke its override authority frequently, but it does happen. The most recent example where the CEC invoked its override authority on zoning issues occurred in the October 2006 CEC decision on the Los Esteros project in the City of San Jose.

Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under State Code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

**Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at:

**<http://www.energy.ca.gov/sitingcases/colusa/documents/index.html>**

This staff report incorporates by reference the CEC's Preliminary Staff Assessment.

*Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's, Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in which to assure this will be done is to require any additional power plants be required to apply for further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this

site, is to recommend that only the southern portion of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The northern portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

**General Plan and Zoning – amendment(s):**

The current General Plan land use designation is Agriculture-General (A-G). Land carrying this designation is generally used for orchard and crop production. Residences in these areas are related to agricultural operations. Secondary uses in the A-G areas include oil and gas drilling, non-intensive recreation, agricultural industry (processing), and agricultural support uses, provided that these uses do not interfere with the viability of agriculture or create environmental hazards.

The current Zoning classification is Exclusive Agriculture (E-A). The E-A zone is intended to be applied in areas of fertile soils and areas where agriculture is the natural and desirable primary land use, and in which areas the protection of agriculture from the encroachment of incompatible uses is essential to the general welfare.

*Request for Industrial general plan land use designation and Industrial zoning classification.* The application for the Colusa Generating Station is for a land use activity that is inconsistent with the current General Plan land use designation of A-G and the zoning classification of the E-A zone. The applicant has, therefore, submitted the necessary applications requiring a general plan amendment and zoning amendment to an appropriate and consistent land use designation and zoning classification. The applicant has applied for an amendment to change the land use designation on a proposed 100-acre parcel to Industrial (I), and to amend the zoning classification to Industrial (M) zone. With approval of the general plan amendment and zoning classification amendment, the applicant's proposed project, the proposed use of the land for the construction and operation of a natural gas driven power plant, will be consistent with the new Industrial land use designation and zoning classification.

**Tentative Parcel Map:**

A tentative parcel map application has been submitted requesting a 100-acre parcel to be created from a 451+/- acre parcel, APN 011-040-024, part of the larger 4,800+/- acre Hothouse Ranch. The proposed power plant does not require all 451+/- acres of APN 011-040-024, therefore a land division of 100-acres is requested. The proposed power plant site is currently used for low density grazing and is separated from most irrigated crop land by the Glenn-Colusa Canal to the east.

The proposed siting of the power plant at this location is ideal for this specific land use for the following reasons:

- ◆ There is an existing industrial use, the PG&E Compressor Station, adjacent to the site to the east;
- ◆ The 400 and 401 underground natural gas lines, from Alberta, Canada, run north/south past the eastern entrance to the Compressor Station;
- ◆ Existing PG&E owned 230 Kv transmission lines run north/south on the eastern side of the Compressor Station, approximately 1800-feet east of the proposed power plant;
- ◆ The Glenn-Colusa Canal runs north/south approximately 2400-feet east of the proposed power plant;
- ◆ The Tehama-Colusa Canal runs north/south approximately 3200-feet west of the proposed power plant;
- ◆ The nearest residences is located approximately 1 ¼-mile from the proposed power plant;
- ◆ Interstate 5 is located approximately 5 miles to the east of the proposed power plant;
- ◆ The community of Maxwell is located approximately 5-6 miles to the southeast of the proposed power plant;
- ◆ The land is used for low density cattle grazing, with nonprime soils;
- ◆ Road access is provided by I-5, Delevan Road, McDermott Road, and Dirks Road. While specific road/bridge crossings shall require upgrading, all roads are in good condition.
- ◆ While environmental analysis shall be provided by the CEC's Staff Assessment, staff has walked the site and observed limited potential due to physical environmentally-related characteristics. The land surface features include some alkaline grassy features in the northern portion of the proposed 100-acre parcel, but there are no wetlands, riparian vegetation, or other such features that typically provide high biological/wildlife habitat value. The CEC's Staff Assessment shall provide a complete environmental analysis of these features, in addition to air quality, traffic, and water-related issues.

All of the above factors would support and make consistent the applicant's proposal with the County's policies -- encouraging energy development in proximity to existing resources and infrastructure.

#### **Use Permit:**

The objective of the project is to construct and operate a natural gas fired combined cycle power plant capable of providing nominal 660 Mw of electricity to the California electrical grid, with commercial operation planned by Spring 2010. Elements of the proposed project exceed allowable height limits in the County's zoning standards.

*CEC's relationship and role regarding County's Use Permit process.* While a use permit to provide an exemption to the County's height limitation in the Industrial zone is being requested by the applicant, such an action is subsumed by the California Energy Commission's certification process. The purpose and intent on the part of the applicant to submit a request for exemption to the County's height standard is to provide to the CEC the County's position on such a request. The use permit process allows the County to analyze and determine both the specific characteristics of the use permit request as well as consider and determine the project as a whole. The CEC staff is seeking advice from the County on whether it would approve the use permit were it the permitting agency for

the power plant project. The applicant has submitted the request for a major use permit to assist the County in providing the requested advice. The County, in its effort to consider and determine both the specifics of the request for exemption to the height standard, and in the whole of the project with its multiple actions and entitlement requests, has required the applicant to submit separate applications for each action: general plan amendment, zoning amendment, tentative parcel map, and use permit.

The applicant has submitted a request for a major use permit which would provide an exemption from the zoning code's height limitation standard in the Industrial zone. The County's height standard for structures in the Industrial zone allows for a maximum height of 100-feet. The applicant proposes 29-features that will exceed the 100-foot height standard. A "Supplement to the Project Description" has been provided that delineates and describes the type and location of each feature. The following facilities that triggered the County's requirement for a use permit include the following:

<u>Equipment</u>	<u>Quantity</u>	<u>Height (feet)</u>	<u>Location Description</u>
Lattice Tower	12	100-to-125	4 of these towers would be within the 100-acre project site. 8 of these towers would be outside of the 100-acre site.
Take-Off Tower	6	120	All 6 of these towers would be located within the new switchyard and within the 100-acre site.
Monopole Tower	8	120	All 8 of these towers would be located within the new switchyard and within the 100-acre site.
HRSO Stack	2	175	These 2 stacks would be located within the power plant and within the 100-acre site.
Air cooled condenser	1	144	The air cooled condenser would be located within the power plant and within the 100-acre site.

Most of these structures would be 120-foot tall towers associated with the new power plant switchyard and transmission line interconnection. The remaining structures would consist of a 144-foot tall air cooled condenser and two 175-foot tall heat recovery steam generators (HRSOs).

Of the 29-structures, eight (8) would be located outside of the 100-acre site and twenty-one (21) would be located within the 100-acre site. [See Plot Plan, dated October 4, 2006, for the location of these structures.]

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed power plant, requiring County land use entitlements, a general plan amendment and zoning amendment, is considered a "project" under the California Environmental Quality Act.

**CEQA Compliance:**

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:*
  - (1) *The State Energy Resources Conservation and Development Commission . . . .*
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff

Assessment process. The CEC's Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).

2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
  - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).
4. The Planning Commission has independently reviewed, analyzed, and considered the CEC's Preliminary Staff Assessment, provided to the County on August 9, 2007, prior to making its decision on the project, and reflects the independent judgment of Colusa County.

## **Section 2: General Plan Amendment Findings.**

1. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to the southern-most 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.
  - d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]
2. The project is consistent with the General Plan land use designation for Industrial.
3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:

- a. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.
- b. Community Services: Objective (j) – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
- c. Resource Conservation: Objective (i) – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
- d. Economic Development: Objective (a) – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
- e. Economic Development: Objective (f) – To encourage new industries which offer stable, year-round employment.
- f. Economic Development: Objective (g) – To promote development which improves the local tax base.
- g. Economic Development: Objective (j) -- To locate new industry in such a way that the impact on existing communities is minimized, and interference with agricultural operations is minimized.
- h. Economic Development: Objective (s) – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

**Section 3: Zoning Amendment Findings:**

- 1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
- 2. The area to be rezoned to Industrial shall consist of the southern-most 50-acres of the proposed new 100-acre parcel from a 451+/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
- 3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.
- 4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**Section 4. Tentative Parcel Map Findings:**

- 1. The proposed Tentative Parcel Map is consistent with the Goals and Policies of the Colusa County General Plan Land Use Element for both the current general plan land use designation and for an Industrial land use designation.

2. The project is consistent with the parcel size of 100-acres with the current zoning of the subject property and with the proposed Industrial zoning classification.
3. The land division is properly correlated to slope, soil and other natural characteristics because the site has average slopes of 2% to 7% average and because the soils on the site are generally adequate for septic systems.
4. The design and improvements of the proposed tentative parcel map are consistent with County standards and policies because conditions of the project will ensure that County requirements are satisfied.
5. The project is physically suitable for the use and density of the proposed development because there is adequate level area on the proposed parcel for a 660 Mw natural gas fired power plant and accessory structures, as presented in the applications.
6. The design and improvements of the project will not cause public health or safety problems due to the CEC's Staff Assessment and mitigation measure requirements.
7. The project site does not contain any physical characteristics that could cause health or safety concerns.
8. The design and improvements of the project will not conflict with easements acquired by any public entity or special district for access, drainage, or utilities.
9. Approval of the project will not be detrimental to the general health, safety and welfare of the public because the mitigation measures identified by the CEC's Staff Assessment for the project shall be incorporated into the project as conditions of approval. The conditions must be satisfied as a necessary prerequisite or the final map will not be allowed to be recorded.

**Section 5. Use Permit Findings:**

1. The proposed use of the property will not impair the integrity and character of the zone in which the land lies, and that the use would not be unreasonably incompatible with, or injurious to, surrounding properties, or detrimental to the health, safety, and general welfare of the persons residing or working in the neighborhood, or to the general health, welfare, and safety of the County as supported by the following:
  - a. Mitigation measures provided in the CEC's Staff Assessment related to land uses, air quality, water, fire protection services, cultural resources, road and traffic, and other environmental issues shall result in the avoidance, reduction, minimization of potentially significant impacts to surrounding properties, or impacting the health, safety, and general welfare of persons living in the area. Mitigation measures addressing safety concerns related to fire protection and hazardous materials shall insure the general health and safety of the public.

b. The project would not be unreasonably incompatible with surrounding land uses with the incorporation of the CEC's Staff Assessment mitigation measures for the following reasons:

- i. The proposed power plant will be situated next to and behind (to the west) an existing industrial use, the PG&E Compressor Plant;
- ii. The Holthouse Ranch, consisting of approximately 4,800+/- acres, is used primarily for low density cattle grazing;
- iii. The majority of soils is considered nonprime as per the California Department of Conservation's Map of Farmland Importance;
- iv. The geographical location and the site-specific geomorphology all minimizes any potential visual or aesthetic impact to the general public living in the wider general area, or from traffic from local roads or traveling north/south on Interstate 5;
- v. Staff is recommending only 50-acres, or one-half the proposed request for a 100-acre parcel, be given an amended land use designation of Industrial and amended zoning classification of Industrial. This will assure that the applicant has sufficient acreage to encompass a building footprint of 31-acres for the power plant, plus ancillary uses, but also assures the County that no additional turbine/stack expansions or additions will occur on Industrial zoned land without the applicant having to come back and apply for additional land use entitlements.

2. The purpose of the exemption to the height limitation to allow the various power plant's infrastructure to be constructed according to engineered plans assures the air emissions shall be able to be emitted and exhausted appropriately, at specifically engineered emitted heights so that potential noxious materials may be adequately dispersed thereby avoiding a concentration of pollutants for consistent, lengthy, and frequent times within the nearby areas of the power plant.

#### **RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve or recommend to the Board of Supervisors approval of the following actions, subject to the respective findings listed above and conditions attached to the "Master Staff Report" and identified as Exhibit(s) "A" in each respective action's Staff Report:

1. Move to approve the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
2. Recommend by Resolution to the Board of Supervisors to certify the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.

3. Move to approve a tentative parcel map for E & L Westcoast, LLC, on APN 011-040-024, for a 100-acre parcel, subject to approval of the general plan and zoning amendments by the Board of Supervisors.
4. Move to approve a use permit for E & L Westcoast, LLC, on APN 011-040-024, exempting the applicant's project from the 100-foot height limitation on land zoned Industrial, subject to approval of the general plan and zoning amendments by the Board of Supervisors.
5. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation, for E & L Westcoast, LLC, on APN 011-040-024, from Agriculture-General to Industrial, on the southern-most 50-acres of a proposed 100-acre parcel.
6. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification, for E & L Westcoast, LLC, on APN 011-040-024, from Exclusive-Agriculture to Industrial, on the southern-most 50-acres of a proposed 100-acre parcel.

## EXHIBIT I

### CONDITIONS OF APPROVAL

#### GENERAL PLAN AMENDMENT:

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to the southern-most portion of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, the northern-most portion, shall retain its current general plan land use designation of Agriculture-General.
3. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's *Application For Certification* to the CEC, and implement all conditions in the CEC's Staff Assessment.

#### ZONING AMENDMENT

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the Zoning classification from Exclusive-Agriculture to Industrial shall only apply to the southern-most portion of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, the northern-most portion, shall retain its current Zoning classification of Exclusive-Agriculture.

3. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's *Application For Certification* to the CEC, and implement all conditions in the CEC's Staff Assessment.

### **TENTATIVE PARCEL MAP**

1. The Parcel Map shall conform to the configuration shown in the application for Tentative Parcel Map, File No. #07-2-4 submitted and on file at the Colusa County Department of Planning & Building and as approved by the Colusa County Planning Commission. Major revisions to the Parcel Map as determined by the County Surveyor shall not occur without prior formal approval by the Colusa County Planning Commission.
2. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
3. The applicant and its successors in interest shall comply with all other applicable federal, state, and local statutes, ordinances, and regulations.
4. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's *Application For Certification* to the CEC, and implement all conditions in the CEC's Staff Assessment.
5. The applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within a County right-of-way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
6. This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

### **II. NOTATION:**

Minor changes may be approved administratively by the Directors of Planning & Building, Environmental Health, Public Works, or the Fire Chief upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification

shall be made by each Department or division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment.

## **USE PERMIT**

### *General Conditions:*

1. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of this Use Permit, constitutes cause for the revocation of said permit in accordance with the procedures set forth in the Colusa County Zoning Ordinance, including Colusa County Code Section. 7.29.
2. Unless otherwise provided for in a special condition to this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use.
3. Minor changes may be approved administratively by the Directors of Planning and Building (Zoning Administrator), Environmental Health, Public Works or Fire Chief or their respective designee upon receipt of a substantiated written request by the applicant. Prior to such approval, verification shall be made by each Department or Division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment and be heard by the Planning Commission.
4. The use granted by this permit must be established within 12 months of the delivery of the countersigned permit to the Permittee. If any use for which a Use Permit has been granted is not established within one year of the date of receipt of the countersigned permit by the Permittee, the permit shall become null and void and re-application and a new permit shall be required to establish the use.
5. The terms and conditions of this permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors and assigns of the Permittee.

### *Project-specific Conditions:*

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.

2. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
3. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
4. This action does not relieve the applicant of the obligation to comply with all ordinances, statues, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

**Note:** Issuance of the Use Permit does not waive requirement of obtaining Building and Health Department permits before starting construction nor does it waive any other requirements.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: General Plan & Zoning Amendments – AUGUST 27, 2007

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**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** GPA#07-2-1 (ED#-07-48) / ZA#07-2-1 (ED#07-48)

**REQUEST:**

- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new 100-acre parcel from APN 011-040-024;
- 2) Amend the zoning classification from *Exclusive Agriculture* to *Industrial* on a new 100-acre parcel from APN 011-040-024;

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a new parcel to be created of 100-acres.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See Attachments in Master Staff Report.

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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Recommend approval by Resolution to the Board of Supervisors the Certification of the Notice of Exemption (NOE) for a statutory exemption to CEQA.
3. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
4. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

A Tentative Parcel Map is requested to divide a 451+/- acre parcel, APN 011-040-024, creating a new 100-acre parcel upon which the proposed Colusa Generating Station--power plant--will be constructed.

A Use Permit is requested to exempt the proposed power plant from the County's zoning standards which have a height limitation of 100-feet on land uses in the Industrial zone.

Approval of a Development Agreement (DA) is requested that provides the County and applicant with mutually-agreed benefits and assurances.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access

to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

### **Environmental Setting:**

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

### **ANALYSIS:**

#### **Relationship of Authority between the California Energy Commission (CEC) and County Government:**

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*... the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not

need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

The project proposal, the construction of a 660 Mw power plant, is presently inconsistent with the County's General Plan land use element and Zoning Code. The appropriate manner in which to make the proposed project consistent with the County's land use regulations is to modify the land use designation and zoning classification. The CEC is looking to the County for its advice as to whether the County is interested in amending its general plan and zoning to provide for the power plant in its present proposed location. Hence, the applicant has submitted applications for a general plan amendment and zoning amendment.

*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

If a local agency (County) prefers not to approve a general plan amendment and zoning amendment wherein the proposed power plant would be consistent with local land use ordinances, the commission has the authority to approve the project anyway, with findings. The commission does not invoke its override authority frequently, but it does happen. The most recent example where the CEC invoked its override authority on zoning issues occurred in the October 2006 CEC decision on the Los Esteros project in the City of San Jose.

Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

### **Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at: <http://www.energy.ca.gov/sitingcases/colusa/documents/index.html> This staff report incorporates by reference the CEC's Preliminary Staff Assessment.

### *Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's, Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in

which to assure this will be done is to require any additional power plants be required to apply for further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this site, is to recommend that only the southern portion of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The northern portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

**General Plan and Zoning amendment(s):**

The current General Plan land use designation is Agriculture-General (A-G). Land carrying this designation is generally used for orchard and crop production. Residences in these areas are related to agricultural operations. Secondary uses in the A-G areas include oil and gas drilling, non-intensive recreation, agricultural industry (processing), and agricultural support uses, provided that these uses do not interfere with the viability of agriculture or create environmental hazards.

The current Zoning classification is Exclusive Agriculture (E-A). The E-A zone is intended to be applied in areas of fertile soils and areas where agriculture is the natural and desirable primary land use, and in which areas the protection of agriculture from the encroachment of incompatible uses is essential to the general welfare.

*Request for Industrial general plan land use designation and Industrial zoning classification.* The application for the Colusa Generating Station is for a land use activity that is inconsistent with the current General Plan land use designation of A-G and the zoning classification of the E-A zone. The applicant has, therefore, submitted the necessary applications requiring a general plan amendment and zoning amendment to an appropriate and consistent land use designation and zoning classification. The applicant has applied for an amendment to change the land use designation on a proposed 100-acre parcel to Industrial (I), and to amend the zoning classification to Industrial (M) zone. With approval of the general plan amendment and zoning classification amendment, the applicant's proposed project, the proposed use of the land for the construction and operation of a natural gas driven power plant, will be consistent with the new Industrial land use designation and zoning classification.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed power plant, requiring County land use entitlements, a general plan amendment and zoning amendment, is considered a “project” under the California Environmental Quality Act.

CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:  
(1) The State Energy Resources Conservation and Development Commission*
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. The CEC’s Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).

2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
  - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).
4. The Planning Commission has independently reviewed, analyzed, and considered the CEC's Preliminary Staff Assessment, provided to the County on August 9, 2007, prior to making its decision on the project, and reflects the independent judgment of Colusa County.

## **Section 2: General Plan Amendment Findings.**

1. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to the southern-most 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.
  - d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]
2. The project is consistent with the General Plan land use designation for Industrial.
3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:
  - a. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.

- b. **Community Services: Objective (j)** – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
- c. **Resource Conservation: Objective (i)** – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
- d. **Economic Development: Objective (a)** – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
- e. **Economic Development: Objective (f)** – To encourage new industries which offer stable, year-round employment.
- f. **Economic Development: Objective (g)** – To promote development which improves the local tax base.
- g. **Economic Development: Objective (j)** – To locate new industry in such a way that the impact on existing communities is minimized, and interference with agricultural operations is minimized.
- h. **Economic Development: Objective (s)** – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

**Section 3: Zoning Ordinance Findings:**

1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
2. The area to be rezoned to Industrial shall consist of the southern-most 50-acres of the proposed new 100-acre parcel from a 451+/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.
4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve or recommend to the Board of Supervisors approval of the following actions, subject to the findings listed below and conditions in attached Exhibit A:

- A. Move to approve the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- B. Recommend by Resolution to the Board of Supervisors to certify the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- C. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation, for E & L Westcoast, LLC, on APN 011-040-024, from Agriculture-General to Industrial, on the southern-most 50-acres of a proposed 100-acre parcel.
- D. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification, for E & L Westcoast, LLC, on APN 011-040-024, from Exclusive-Agriculture to Industrial, on the southern-most 50-acres of a proposed 100-acre parcel.

**EXHIBIT A**  
**GENERAL PLAN AMENDMENT**  
**&**  
**ZONING AMENDMENT**

**CONDITIONS OF APPROVAL:**

**General Plan Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
4. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to the southern-most portion of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, the northern-most portion, shall retain its current general plan land use designation of Agriculture-General.
3. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.

**Zoning Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to the southern-most portion of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, the northern-most portion, shall retain its current general plan land use designation of Agriculture-General.

3. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: Tentative Parcel Map – AUGUST 27, 2007

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**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** TPM#07-2-4 (ED#07-49)

**REQUEST:** Approve a Tentative Parcel Map to create a new 100-acre parcel on APN 011-040-024.

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a new 100-acre parcel to be created on APN 011-040-024.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See Attachments in Master Staff Report.

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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Recommend approval by Resolution to the Board of Supervisors the Certification of the Notice of Exemption (NOE) for a statutory exemption to CEQA.
3. Approve the request for a tentative parcel map creating a 100-acre parcel on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

A Tentative Parcel Map is requested to divide a 451+/- acre parcel, APN 011-040-024, creating a new 100-acre parcel upon which the proposed Colusa Generating Station--power plant—will be constructed.

A Use Permit is requested to exempt the proposed power plant from the County's zoning standards which have a height limitation of 100-feet on land uses in the Industrial zone.

Approval of a Development Agreement (DA) is requested that provides the County and applicant with mutually-agreed benefits and assurances.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

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Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

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Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.*

The PRC Section

25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

### **Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at: <http://www.energy.ca.gov/sitingcases/colusa/documents/index.html> This staff report incorporates by reference the CEC's Preliminary Staff Assessment.

### *Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's, Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in which to assure this will be done is to require any additional power plants be required to apply for

further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this site, is to recommend that only the southern portion of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The northern portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

#### **Tentative Parcel Map:**

A tentative parcel map application has been submitted requesting a 100-acre parcel to be created from a 451+/- acre parcel, APN 011-040-024, part of the larger 4,800+/- acre Holthouse Ranch. The proposed power plant does not require all 451+/- acres of APN 011-040-024, therefore a land division of 100-acres is requested. The proposed power plant site is currently used for low density grazing and is separated from most irrigated crop land by the Glenn-Colusa Canal to the east.

The proposed siting of the power plant at this location is ideal for this specific land use for the following reasons:

- ◆ There is an existing industrial use, the PG&E Compressor Station, adjacent to the site to the east;
- ◆ The 400 and 401 underground natural gas lines, from Alberta, Canada, run north/south past the eastern entrance to the Compressor Station;
- ◆ Existing PG& E owned 230 Kv transmission lines run north/south on the eastern side of the Compressor Station, approximately 1800-feet east of the proposed power plant;
- ◆ The Glenn-Colusa Canal runs north/south approximately 2400-feet east of the proposed power plant;
- ◆ The Tehama-Colusa Canal runs north/south approximately 3200-feet west of the proposed power plant;
- ◆ The nearest residences is located approximately 1 ¼-mile from the proposed power plant;
- ◆ Interstate 5 is located approximately 5 miles to the east of the proposed power plant;
- ◆ The community of Maxwell is located approximately 5-6 miles to the southeast of the proposed power plant;
- ◆ The land is used for low density cattle grazing, with nonprime soils;
- ◆ Road access is provided by I-5, Delevan Road, McDermott Road, and Dirks Road. While specific

road/bridge crossings shall require upgrading, all roads are in good condition.

- ◆ While environmental analysis shall be provided by the CEC's Staff Assessment, staff has walked the site and observed limited potential, physical environmentally-related characteristics of any value. The land surface features include some alkaline grassy features in the northern portion of the proposed 100-acre parcel, but there are no wetlands, riparian vegetation, or other such features that typically provide high biological/wildlife habitat value. The CEC's Staff Assessment shall provide a complete environmental analysis of these features, in addition to air quality, traffic, and water-related issues.

All of the above factors would support and make consistent the applicant's proposal with the County's policies -- encouraging energy development in proximity to existing resources and infrastructure.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed power plant, requiring County land use entitlements, a general plan amendment and zoning amendment, is considered a "project" under the California Environmental Quality Act.

#### CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

#### *§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:*

(1) *The State Energy Resources Conservation and Development Commission*

.....

- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

### **FINDINGS:**

#### **Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant

land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.

- a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. The CEC's Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).
2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
    - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
  3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).
  4. The Planning Commission has independently reviewed, analyzed, and considered the CEC's Preliminary Staff Assessment, provided to the County on August 9, 2007, prior to making its decision on the project, and reflects the independent judgment of Colusa County.

## **Section 2: Tentative Parcel Map Findings:**

1. The proposed Tentative Parcel Map is consistent with the Goals and Policies of the Colusa County General Plan Land Use Element for both the current general plan land use designation and for an Industrial land use designation.
2. The project is consistent with the parcel size of 100-acres with the current zoning of the subject property and with the proposed Industrial zoning classification.
3. The land division is properly correlated to slope, soil and other natural characteristics because the site has average slopes of 2% to 7% average and because the soils on the site are generally adequate for septic systems.
4. The design and improvements of the proposed tentative parcel map are consistent with County standards and policies because conditions of the project will ensure that County requirements are satisfied.
5. The project is physically suitable for the use and density of the proposed development because there is adequate level area on the proposed parcel for a 660 Mw natural gas fired power plant

and accessory structures, as presented in the applications.

6. The design and improvements of the project will not cause public health or safety problems due to the CEC's Staff Assessment and mitigation measure requirements.
7. The project site does not contain any physical characteristics that could cause health or safety concerns.
  - (b) The design and improvements of the project will not conflict with easements acquired by any public entity or special district for access, drainage, or utilities.
  - (c) Approval of the project will not be detrimental to the general health, safety and welfare of the public because the mitigation measures identified by the CEC's Staff Assessment for the project shall be incorporated into the project as conditions of approval. The conditions must be satisfied as a necessary prerequisite or the final map will not be allowed to be recorded.

#### **RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve or recommend to the Board of Supervisors approval of the following actions, subject to the findings listed below and conditions in attached Exhibit A:

- A. Move to approve the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- B. Recommend by Resolution to the Board of Supervisors to certify the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- C. Move to approve a tentative parcel map for E & L Westcoast, LLC, on APN 011-040-024, for a 100-acre parcel, subject to approval of the general plan and zoning amendments by the Board of Supervisors.

**EXHIBIT A  
TENTATIVE PARCEL MAP**

**I. CONDITIONS OF APPROVAL**

1. The Parcel Map shall conform to the configuration shown on Tentative Parcel Map #07-2-4 submitted and on file at the Colusa County Department of Planning & Building and as approved by the Colusa County Planning Commission. Major revisions to the Parcel Map as determined by the County Surveyor shall not occur without prior formal approval by the Colusa County Planning Commission.
2. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
3. The applicant and its successors in interest shall comply with all other applicable federal, state, and local statutes, ordinances, and regulations.
4. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
5. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
6. This action does not relieve the applicant of the obligation to comply with all ordinances, statues, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

**II. NOTATION:**

Minor changes may be approved administratively by the Directors of Planning & Building, Environmental Health, Public Works, or the Fire Chief upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification shall be made by each Department or division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: Use Permit – AUGUST 27, 2007

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- APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.
- FILE #:** UP#07-2-16 (ED#07-50)
- REQUEST:** Approval of a use permit to allow exemption to the County's height restrictions for industrial uses.
- GENERAL PLAN:** Agriculture General (current)
- ZONING:** Exclusive Agriculture (current)
- APN:** 011-040-024, -023, and -022
- LOCATION:** The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.
- PARCEL SIZE:** Current parcel APN 011-040-024 is 451-acres. Proposed project is to be located on a newly created parcel of 100-acres.
- EXHIBIT A:** Conditions of Approval
- ATTACHMENTS:** See Attachments in Master Staff Report.

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**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Approve the Notice of Exemption (NOE) for a statutory exemption to CEQA.
2. Recommend approval by Resolution to the Board of Supervisors the Certification of the Notice of Exemption (NOE) for a statutory exemption to CEQA.
3. Approve the request for a Use Permit to exempt project from County zoning height limitation standards.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

A Tentative Parcel Map is requested to divide a 451+/- acre parcel, APN 011-040-024, creating a new 100-acre parcel upon which the proposed Colusa Generating Station--power plant—will be constructed.

A Use Permit is requested to exempt the proposed power plant from the County's zoning standards which have a height limitation of 100-feet on land uses in the Industrial zone.

Approval of a Development Agreement (DA) is requested that provides the County and applicant with mutually-agreed benefits and assurances.

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

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The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

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*The "Override" Authority.* In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

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Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of

the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

#### **Issues and Concerns:**

*Environmental Issues.* The County has identified a number of potential issues and areas of concern. Some of these items are related to the environment, but several have to do with non-environmental matters. The potential environmental issues include, in part, the following: Surrounding Land Use and Compatibility, Air Quality, Noise, Hazardous Materials, Biological Resources, Water Resources, Visual Resources, Traffic, and Fire Protection Services. In discussions with California Energy Commission (CEC) staff, review of the Preliminary Staff Assessment, and after attending several CEC hearings and workshops, County staff is assured the state is addressing all of these issues and concerns through the following processes: public information hearings, public workshops, and in the CEC's Preliminary and Final Staff Assessment(s) (PSA & FSA). County staff has attended these hearings and workshops, and shall continue to do so throughout the CEC's process. County staff has met individually and/or had telephone discussions, and has exchanged emails with CEC staff that are responsible for performing and providing the analyses of the many environmentally-related issues. The PSA has been released to the public as of August 1, 2007. It is available for viewing on the CEC's web site at: <http://www.energy.ca.gov/sitingcases/colusa/documents/index.html>  
This staff report incorporates by reference the CEC's Preliminary Staff Assessment.

#### *Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's,

Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in which to assure this will be done is to require any additional power plants be required to apply for further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this site, is to recommend that only the southern portion of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The northern portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

#### **Use Permit:**

The objective of the project is to construct and operate a natural gas fired combined cycle power plant capable of providing nominal 660 Mw of electricity to the California electrical grid, with commercial operation planned by Spring 2010. Elements of the proposed project exceed allowable height limits in the County's zoning standards.

*CEC's relationship and role regarding County's Use Permit process.* While a use permit to provide an exemption to the County's height limitation in the Industrial zone is being requested by the applicant, such an action is subsumed by the California Energy Commission's certification process. The purpose and intent on the part of the applicant to submit a request for exemption to the County's height standard is to provide to the CEC the County's position on such a request. The use permit process allows the County to analyze and determine both the specific characteristics of the use permit request as well as consider and determine the project as a whole. The CEC staff is seeking advice from the County on whether it would approve the use permit were it the permitting agency for the power

plant project. The applicant has submitted the request for a major use permit to assist the County in providing the requested advice. The County, in its effort to consider and determine both the specifics of the request for exemption to the height standard, and in the whole of the project with its multiple actions and entitlement requests, has required the applicant to submit separate applications for each action: general plan amendment, zoning amendment, tentative parcel map, and use permit.

The applicant has submitted a request for a major use permit which would provide an exemption from the zoning code's height limitation standard in the Industrial zone. The County's height standard for structures in the Industrial zone allows for a maximum height of 100-feet. The applicant proposes 29-features that will exceed the 100-foot height standard. A "Supplement to the Project Description" has been provided that delineates and describes the type and location of each feature. The following facilities that triggered the County's requirement for a use permit include the following:

<u>Equipment</u>	<u>Quantity</u>	<u>Height (feet)</u>	<u>Location Description</u>
Lattice Tower	12	100-to-125	4 of these towers would be within the 100-acre project site. 8 of these towers would be outside of the 100-acre site.
Take-Off Tower	6	120	All 6 of these towers would be located within the new switchyard and within the 100-acre site.
Monopole Tower	8	120	All 8 of these towers would be located within The new switchyard and Within the 100-acre site.
HRSO Stack	2	175	These 2 stacks would be located within the power Plant and within the 100-acre site.
Air cooled condenser	1	144	The air cooled condenser would be located within the power plant and within the 100-acre site.

Most of these structures would be 120-foot tall towers associated with the new power plant switchyard and transmission line interconnection. The remaining structures would consist of a 144-foot tall air cooled condenser and two 175-foot tall heat recovery steam generators (HRSOs).

Of the 29-structures, eight (8) would be located outside of the 100-acre site and twenty-one (21) would be located within the 100-acre site. [See Plot Plan, dated October 4, 2006, for the location of these structures.]

**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed power plant, requiring County land use entitlements, a general plan amendment and zoning amendment, is considered a “project” under the California Environmental Quality Act.

CEQA Compliance:

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments, tentative parcel map, and use permit for exemption to zoning limitations on height.

*§15271. Early Activities Related to Thermal Power Plants.*

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:
  - (1) *The State Energy Resources Conservation and Development Commission**
  
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).



- iv. The geographical location and the site-specific geomorphology all minimizes any potential visual or aesthetic impact to the general public living in the wider general area, or from traffic from local roads or traveling north/south on Interstate 5;
- v. Staff is recommending only 50-acres, or one-half the proposed request for a 100-acre parcel, be given an amended land use designation of Industrial and amended zoning classification of Industrial. This will assure that the applicant has sufficient acreage to encompass a building footprint of 31-acres for the power plant, plus ancillary uses, but also assures the County that no additional turbine/stack expansions or additions will occur on Industrial zoned land without the applicant having to come back and apply for additional land use entitlements.

2. The purpose of the exemption to the height limitation to allow the various power plant's infrastructure to be constructed according to engineered plans assures the air emissions shall be able to be emitted and exhausted appropriately, at specifically engineered emitted heights so that potential noxious materials may be adequately dispersed thereby avoiding a concentration of pollutants for consistent, lengthy, and frequent times within the nearby areas of the power plant.

#### **RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission approve or recommend to the Board of Supervisors approval of the following actions, subject to the findings listed below and conditions in attached Exhibit A:

- A. Move to approve the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- B. Recommend by Resolution to the Board of Supervisors to certify the adoption of a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
- C. Move to approve a use permit for E & L Westcoast, LLC, on APN 011-040-024, exempting the applicant's project from the 100-foot height limitation on land zoned Industrial, subject to approval of the general plan and zoning amendments by the Board of Supervisors.

**EXHIBIT A  
USE PERMIT**

**DATE**

**UP #07-02-16  
PERMIT NO.**

**APN 011-040-024  
ASSESSORS PARCEL NO.**

Pursuant to the provisions of the Zoning Ordinance of the County of Colusa and the special conditions set forth below, **E & L Westcoast, LLC**, is hereby granted a Use Permit in accordance with the application filed to construct and operate a natural gas fired combined cycle power plant, exempting the power plant from zoning height limitation standards, on the southern-most 50-acre portion of a newly created 100-acre parcel on land currently identified as APN 011-040-024.

*Standard Conditions:*

1. Failure to comply with the conditions specified herein as the basis for approval of application and issuance of this Use Permit, constitutes cause for the revocation of said permit in accordance with the procedures set forth in the Colusa County Zoning Ordinance, including Colusa County Code Section. 7.29.
2. Unless otherwise provided for in a special condition to this Use Permit, all conditions must be completed prior to or concurrently with the establishment of the granted use.
3. Minor changes may be approved administratively by the Directors of Planning and Building (Zoning Administrator), Environmental Health, Public Works or Fire Chief or their respective designee upon receipt of a substantiated written request by the applicant. Prior to such approval, verification shall be made by each Department or Division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment and be heard by the Planning Commission.
4. The use granted by this permit must be established within 12 months of the delivery of the countersigned permit to the Permittee. If any use for which a Use Permit has been granted is not established within one year of the date of receipt of the countersigned permit by the Permittee, the permit shall become null and void and re-application and a new permit shall be required to establish the use.
5. The terms and conditions of this permit shall run with the land and shall be binding upon and be to the benefit of the heirs, legal representatives, successors and assigns of the Permittee.

***Project-specific Conditions:***

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
3. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Recorders Office and shall be encumbered to the Permittee's property and shall run with the land.
4. This action does not relieve the applicant of the obligation to comply with all ordinances, statues, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.

I hereby declare under penalty of perjury that I have read the foregoing conditions, that they are in fact the conditions which were imposed upon granting of this use permit, and that I agree to abide fully by said conditions.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Applicant

Note: Issuance of the Use Permit does not waive requirement of obtaining Building and Health Department permits before starting construction nor does it waive any other requirements.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Planning Commission Chairman



STEPHEN M. HACKNEY, AICP  
Director

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
Telephone: (530) 458-0480

November 8, 2007

Andy Welch, Vice President  
Competitive Power Ventures  
8403 Colesville Road, Suite 915  
Silver Spring, MD 20910

**Re: Tentative Parcel Map #07-2-4**

Dear Mr. Welch:

Your Tentative Parcel Map was reviewed by the Planning Commission on September 10, 2007 and approved for a period of two (2) years subject to the following conditions:

Planning and Building

1. The Parcel Map shall conform to the configuration shown on Tentative Parcel Map #07-2-4 submitted and on file at the Colusa County Department of Planning & Building and as approved by the Colusa County Planning Commission. Major revisions to the Parcel Map as determined by the County Surveyor shall not occur without prior formal approval by the Colusa County Planning Commission.
2. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
3. The applicant and its successors in interest shall comply with all other applicable federal, state, and local statutes, ordinances, and regulations.

4. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Staff Assessment.
5. Applicant shall obtain an Encroachment Permit from the Department of Public Works prior to construction of any facilities within County right of way. Said Encroachment Permit shall be a recorded document with the Colusa County Records Office and shall be encumbered to the Permittee's property and shall run with the land.
6. This action does not relieve the applicant of the obligation to comply with all ordinances, statutes, regulations and procedures. Any required subsequent procedural actions shall take place within 12-months of the date on which the permit became effective or this action shall be null and void.
7. The tentative parcel map shall not receive final approve from the Board of Supervisors until after the California Energy Commission staff has released its Final Staff Assessment.
8. Prior to recordation of the final map the applicant shall fully mitigate any and all potential impacts to the Maxwell Fire Protection District as provided for and specified by the California Energy Commission through its Final Staff Assessment and/or Commission findings and conditions of approval. Exceptions to the above wording shall include those mitigation measures/conditions of approval that are more appropriately executed during pre-construction and construction periods of the project.

Public Works

9. The applicant replaces the County owned "Theresa Creek" bridge on McDermott Road.
10. The applicant replaces the privately owned Glenn-Colusa Irrigation District Bridge on the extension of Dirks Road.
11. The applicant repair damaged areas of County Roads "as needed" during construction under County supervision.
12. The applicant, resurface (asphalt overlay) Delevan, McDermott and Dirks Roads after construction is complete, with County approval of design and County supervision.

NOTATION:

Minor changes may be approved administratively by the Directors of Planning & Building, Environmental Health, Public Works, or the Fire Chief upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification shall be made by each Department or division that the modification is consistent with the application fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application or amendment.

Your parcel map may be submitted in final form prior to the expiration date of September 10, 2009, unless an extension is granted by the Planning Commission not to exceed an additional twelve (12) months. An extension request must be submitted to this Office prior to the original expiration date.

Should further information be required, please call this Office.

Very truly yours,



Stephen Hackney, AICP  
Director of Planning &  
Building Administration

/tl

cc: Dept. of Public Works  
Engineer

**Notice of Exemption**

**ENDORSED**

**FILED**

To:  Office of Planning and Research

*For U.S. Mail:*

P.O. Box 3044

Sacramento, CA 95812-3044

*Street Address:*

1400 Tenth St.

Sacramento, CA 958-14

From: Public Agency: Colusa County Planning Dept.

Address: 220 12<sup>th</sup> Street

Colusa, CA 95932

SEP 19 2007

■ County Clerk

County of Colusa County

546 Jay Street, Suite 200

Colusa, CA 95932

KATHLEEN MORAN  
COLUSA COUNTY CLERK-RECORDER

Rec # 342420

Doc No 07-85

Project Title: **E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.  
Colusa Generating Station;**

Project Action: **GPA/ZA #07-2-1 (ED #07-48)**

Project Location-Specific: **The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. This site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the community of Williams and 4-miles west of Interstate 5 in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road (Section 35, Township 18N, Range 4W, MD B and M) in the Maxwell area, identified as APNs #011-040-024; -023 and -022.**

Project Location City:

Project Location-County: **COLUSA**

Project Description: **A General Plan Amendment from land use designation Agriculture General to Industrial and Zoning Amendment from Exclusive Agriculture to Industrial of 50-acres of the central portion of a proposed 100-acre parcel for a 660 megawatt (MW) natural gas-fired combined cycle power plant.**

**The proposed Colusa Generating Station will consist of a natural gas-fired combined cycle power plant, a 230 Kv switchyard and associated linear facilities. The project will have a nominal electrical output of 660 MW. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch-diameter, 1,500-foot-long pipeline that will be owned and operated by PG&E. The power plant and switchyard will occupy approximately 31 acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot-wide extension of the existing PG&E road easement. A 20-foot-wide, paved perimeter road would provide access to the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Two Heat Recovery Steam Generator stacks will be 19-feet in diameter and 175 feet tall.**

Name of Public Agency Approving Project: **Colusa County**

Name of Person or Agency Carrying Out Project: **E & L Westcoast, LLC, a subsidiary of  
Competitive Power Ventures, Inc.**

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(B)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption State type and section number:
- Statutory Exemption. State code number: **California Environmental Quality Act (CEQA)  
Guidelines Section 15271(a)(1) and Section 15271(c)**

Reasons why project is exempt: **Early Activities Related to Thermal Power Plants.**

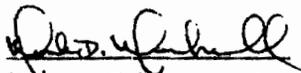
Lead Agency

Contact Person: Stephen Hackney

Area Code/Telephone/Extension: (530) 458-0480

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

  
Signature (Public Agency)

September 18, 2007

9-18-07  
Date

Chairman, Colusa County  
Board of Supervisors  
Title

Signed by Lead Agency     Signed by Applicant

Date received for filing at OPR: \_\_\_\_\_

*Governor's Office of Planning and Research*

Notice of Exemption

ENDORSED

FILED

To: Office of Planning and Research

For U.S. Mail:  
P.O. Box 3044  
Sacramento, CA 95812-3044

Street Address:  
1400 Tenth St  
Sacramento, CA 958-14

From: Public Agency: Colusa County Planning Dept.

Address: 220 12<sup>th</sup> Street  
Colusa, CA 95932

SEP 13 2007

■ County Clerk  
County of Colusa County  
546 Jay Street, Suite 200  
Colusa, CA 95932

KATHLEEN MORAN  
COLUSA COUNTY CLERK-RECORDER

Project Title: E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.  
Colusa Generating Station;

Project Action: TPM #07-2-4 (ED #07-49)

Rec. # 349418

Doc # 07-83

Project Location-Specific: The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. This site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the community of Williams and 4-miles west of Interstate 5 in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road (Section 35, Township 18N, Range 4W, MD B and M) in the Maxwell area, identified as APNs #011-040-024, -023 and -022.

Project Location City:

Project Location-County: COLUSA

Project Description: A Tentative Parcel Map to create a 100-acre parcel from a 451-acre parcel identified as APN #011-040-024, for a 660 megawatt (MW) natural gas-fired combined cycle power plant, on property presently zoned Exclusive Agriculture (E-A).

The proposed Colusa Generating Station will consist of a natural gas-fired combined cycle power plant, a 230 Kv switchyard and associated linear facilities. The project will have a nominal electrical output of 660 MW. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch-diameter, 1,500-foot-long pipeline that will be owned and operated by PG&E. The power plant and switchyard will occupy approximately 31 acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot-wide extension of the existing PG&E road easement. A 20-foot-wide, paved perimeter road would provide access to the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Two Heat Recovery Steam Generator stacks will be 19-feet in diameter and 175 feet tall.

Name of Public Agency Approving Project: **Colusa County**

Name of Person or Agency Carrying Out Project: **E & L Westcoast, LLC, a subsidiary of  
Competitive Power Ventures, Inc.**

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(B)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption State type and section number:
- Statutory Exemption. State code number: **California Environmental Quality Act (CEQA)  
Guidelines Section 15271(a)(1) and Section 15271(c)**

Reasons why project is exempt: **Early Activities Related to Thermal Power Plants.**

Lead Agency

Contact Person: **Stephen Hackney**

Area Code/Telephone/Extension: **(530) 458-0480**

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

  
Signature (Public Agency)

9-10-07  
Date

Chairperson, Planning Commission  
Title

Signed by Lead Agency     Signed by Applicant

Date received for filing at OPR: \_\_\_\_\_

*Governor's Office of Planning and Research*

**RESOLUTION NO. 07-051**

**A RESOLUTION OF THE COLUSA COUNTY BOARD OF SUPERVISORS  
ADOPTING SPECIFIC REVISIONS TO THE COLUSA COUNTY GENERAL  
PLAN LAND USE ELEMENT (GPA #07-2-1)**

WHEREAS, on January 13, 1989, in accordance with the provisions of Government Code Section 65300 et seq., the Colusa County Board of Supervisors adopted a comprehensive general plan for future development in Colusa County and certified the Final General Plan Environmental Impact Report; and

WHEREAS, in accordance with Government Code Section 65353, the Colusa County Planning Commission conducted a public hearing on the proposed specific revision to the General Plan Land Use Element and the Official zoning maps of Colusa County, including amendment of the general plan land use designations from Agriculture General (A-G) to Industrial (I) for the following real properties:

- A portion of Assessor Parcel #011-040-024 (Owners: Leo M. and Diane Holthouse)

WHEREAS, the General Plan and Zoning Ordinance are required by Government Code Section 65860 to be consistent and as such the Planning Commission recommended changing the zoning designation from Exclusive Agriculture (E-A) to Industrial (M) for the following subject properties:

- A portion of Assessor Parcel #011-040-024

WHEREAS, in accordance with Government Code Section 65353, the public had opportunity to make comments at the public hearing of the Planning Commission noticed in accordance with Government Code Sections 65090 and 65091 and made comments on the Planning Commission's consideration of a General Plan Amendment and Zoning project, including comments on the revised Zoning Ordinance, the specific revision to the General Plan Land Use Element (GPA #07-2-1) and rezoning of individual property (ZA #07-2-1) for County of Colusa: and

WHEREAS, in accordance with Government Code Section 65354, a majority of the membership of the Colusa County Planning Commission reviewed the staff report for the project known as GPA #07-2-1 and received public testimony regarding the staff report and recommends to the Board of Supervisors by resolution the adoption of the specific amendments to the General Plan and Zoning Ordinance for those properties identified in the staff report and listed above; and

WHEREAS, in accordance with Government Code Section 65355, the Board of Supervisors held a public hearing noticed pursuant to Government Code Section 65090 prior to amendment of the Colusa County General Plan; and

WHEREAS, in accordance with Government Code Section 65358, the Colusa County Board of Supervisors deems that the proposed specific revisions to the General Plan Land Use Element and Zoning Ordinance are in the public interest; and

WHEREAS, the Board of Supervisors has reviewed the Staff Report prepared by the Colusa County Planning & Building Department, the Statutory Exemption based upon the California Environmental Quality Act (CEQA) Guidelines, §15271(a)(1) and §15271(c), all comments including those submitted by State Responsible Agencies and the Public at large including those of the Planning Commission.

NOW, THEREFORE, the Board of Supervisors of the County of Colusa hereby resolves 1) to adopt the proposed amendment to the General Plan; and 2) finds and determines as follows:

1. To approve and certify the Environmental Determination of a Statutory Exemption for this General Plan and Zoning project, finding further in reference thereto, that the County General Plan as adopted on January 13, 1989 was subject to full environmental review and reporting and is considered legally adequate.

2. To adopt the specific revision to the General Plan Land Use Element, including revision to the land use designation of the individual property, marked as Exhibit "A" and made a part hereof by reference subject to the findings and conditions listed in Exhibit "B" attached hereto and the conditions listed in the official staff report for GPA #07-2-1 and ZA #07-2-1.

3. The adoption of the specific revision to the General Plan Land Use Element and Ordinance No. \_\_\_\_\_, Amendment No. 25 to Zoning Ordinance No. 534 for the rezoning of the individual properties, are found by the Colusa County Board of Supervisors to be in the public interest and responds to the public's desires to maintain the agricultural character of the County, while allowing reasonable growth during the planning period set forth in the adopted Colusa County General Plan.

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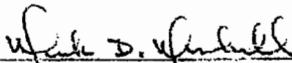
///

PASSED AND ADOPTED this 18th day of September, 2007, by the following vote:

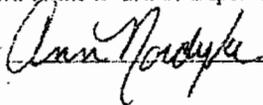
AYES: Supervisors Evans, Indrieri, Vann and Marshall.

NOES: None.

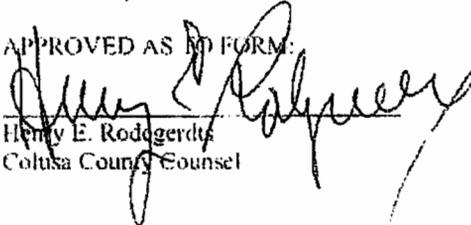
ABSENT: Supervisor Yerxa.

  
Mark Marshall, Chairman of the  
Board of Supervisors

ATTEST:  
KATHILEEN MORAN, County Clerk and ex-officio  
Clerk to the Board of Supervisors

By 

APPROVED AS TO FORM:

  
Henry E. Rodgerdtz  
Colusa County Counsel

# Exhibit A

## General Plan Amendment and Zoning Amendment Boundary Description

A portion of the land described as "PARCEL 1" in the deed to Leo M. and Diane M. Holthouse recorded on 20 February 2004 as Document No. 2004-0000893, Official Records County of Colusa, located in Section 35, Township 18 North, Range 04 West, M.D.B. & M., Colusa County, California, more particularly described as follows:

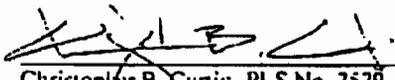
COMMENCING at the southeast corner of Section 35, said corner being a 3/4 inch iron pipe marked PLS 7579; thence along the south line of said Section South 89°42' 51" West 1645.92 feet to a 3/4 inch iron pipe marked PLS 7579; thence leaving said south line North 00°05'01" East parallel with the east line of said section 470.37 feet to the POINT OF BEGINNING; thence continuing along said parallel line North 00°05'01" East 1675.00 feet; thence South 89°54' 59" East 1300.00 feet; thence parallel with said east line South 00°05'01" West 1675.00 feet; thence North 89°54'59" West 1300.00 feet to the POINT OF BEGINNING.

Containing 2,177,846 square feet (49.996 acres), more or less.

The basis of bearings for this description is the California Coordinate System, Zone II, North American Datum of 1983, Epoch date 1991.35, U.S. Survey feet. Distances are grid distance. Divide grid distance by 0.9999206 to obtain ground distance. Area is ground area.

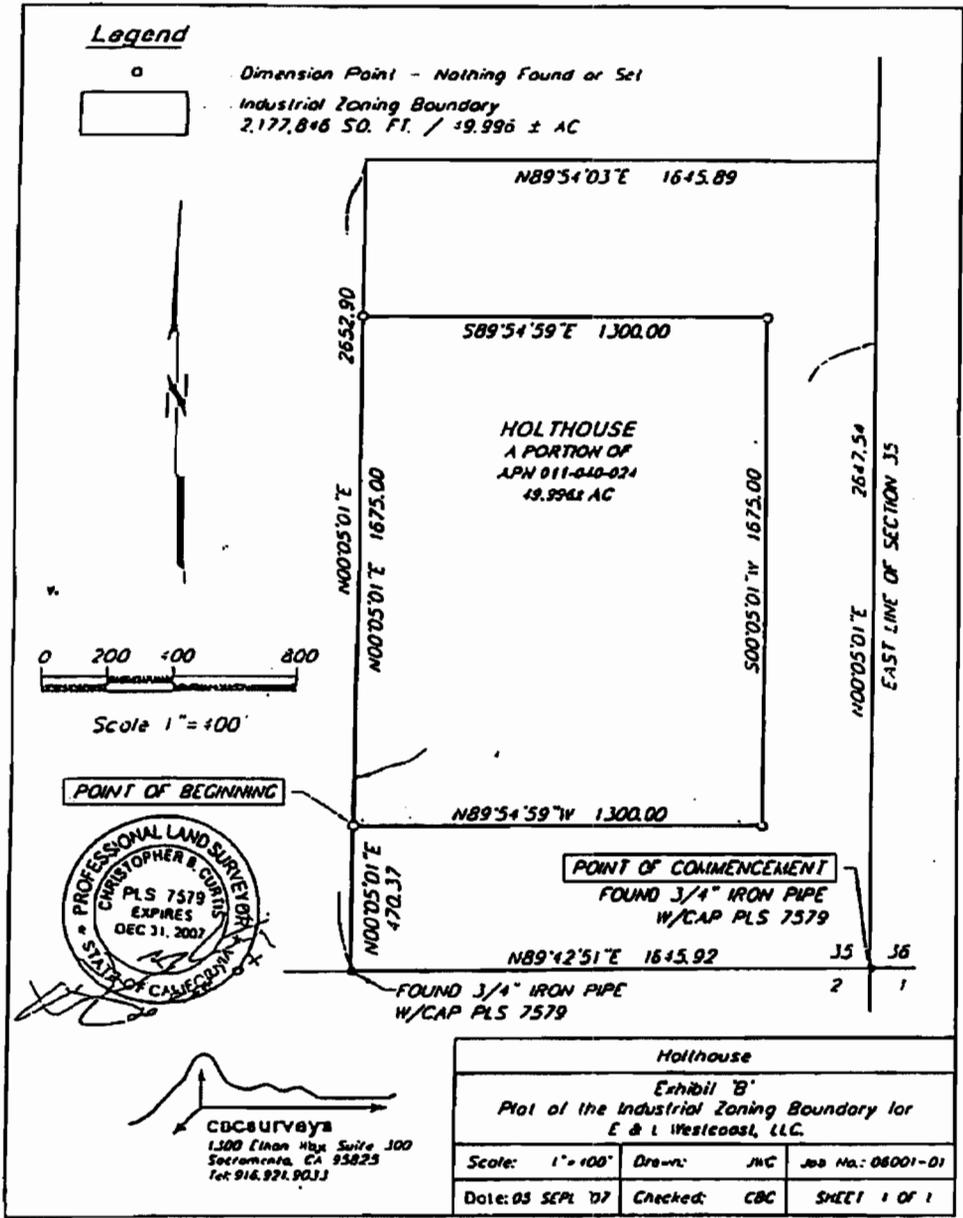
Attached hereto is a plat labeled "Exhibit B" and by this reference made a part hereof.  
**END OF DESCRIPTION**

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

  
Christopher B. Curtis, PLS No. 7579      06 SEP '07  
Date



# Exhibit A



**GENERAL PLAN AMENDMENT**  
From: Agriculture General (A-G)  
To: Industrial (I)

**and**  
**ZONING AMENDMENT**  
From: Exclusive Agriculture (E-A)  
To: Industrial (M)

## Exhibit B

**General Plan Amendment and Zoning Amendment for E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures for the Colusa Generating Station GPA #07-2-1 and ZA #07-2-1:** A General Plan Amendment changing the land use designation from Agriculture General (A-G) to Industrial (I) and Zoning Amendment changing the existing Zoning classification from Exclusive Agriculture (E-A) to Industrial (M) on 50-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. This site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the community of Williams and 4-miles west of Interstate 5 in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road (Section 35, Township 18N, Range 4W, MD B and M) in the Maxwell area, identified as APNs #011-040-024.

**Approval Date: September 18, 2007**

### CONDITIONS OF APPROVAL

#### General Plan Amendment

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement. or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. Approval of the amendment to the general plan land use designation from Agriculture-General to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.
3. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area redesignated to Industrial, shall retain its current general plan land use designation of Agriculture-General.

4. The approval of the amendment of the general plan land use designation from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
5. The approval of the amendment of the general plan from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.

#### **Zoning Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the zoning classification from Exclusive-Agriculture to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area rezoned to Industrial, shall retain its current zoning classification of Exclusive-Agriculture.
3. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
4. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate

**mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.**

- 5. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.**
- 6. Approval of the amendment to the zoning classification from Exclusive-Agriculture to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.**



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

Exhibit C

## COLUSA COUNTY BOARD OF SUPERVISORS BOARD REPORT: General Plan & Zoning Amendments—September 18, 2007

---

**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** GPA#07-2-1 (ED#-07-48) / ZA#07-2-1 (ED#07-48)

**REQUEST:**

- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new parcel located on APN 011-040-024;
- 2) Amend the zoning classification from *Exclusive Agriculture* to *Industrial* on a new parcel located on APN 011-040-024;

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is to be located on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a new parcel to be created of 100-acres.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.

---

**STAFF COMMENT:** The County Planning Commission recommended, by unanimous vote, to the Board of Supervisors the following actions:

1. The Board of Supervisors approve an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
2. The Board of Supervisors approve an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on 50-acres of a proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on 50-acres of a proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid, with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

For a complete analysis of the project, please refer to the attached Planning Commission staff report.

**CEQA:**

The Board of Supervisors, in its deliberations, and prior to a decision on amending the general plan and zoning code, is required to make a CEQA decision.

**CEQA Compliance:**

*CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – Early Activities Related to Thermal Power Plants.* Based upon the above listed CEQA Guidelines sections, County staff is recommending that a Statutory Exemption be adopted for the General Plan and Zoning amendments:

***§15271. Early Activities Related to Thermal Power Plants.***

- (a) *CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for such a thermal power plant, if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 210805, which will be prepared by:*
  - (1) *The State Energy Resources Conservation and Development Commission*
  
- (c) *This section acts to delay the timing of CEQA compliance from the early activities of a utility at the time when a regulatory agency is requested to approve the thermal power plant and shifts the responsibility of preparing the document to the regulatory agency.*

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

**FINDINGS:**

**Section 1: Environmental Findings.**

1. Under the CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*, the multiple actions as part of the processing of a power plant land use on APN 011-040-024, for land use entitlement purposes, is statutorily exempt from the California Environmental Quality Act, as provided for in the above named CEQA Guidelines sections.
  - a. CEQA does not apply to actions undertaken by a public agency relating to any thermal power plant site or facility . . . if the thermal power plant site and related facility will be the subject of an EIR or negative declaration or other document or documents prepared pursuant to a regulatory program certified pursuant to Public Resources Code Section 21080.5, which will be prepared by The State Energy Resources Conservation and Development Commission. (See CEQA Guidelines, Section 15271(a)(1)).
  - b. The California Energy Commission (CEC) is performing an environmental analysis of the project, the site, and facilities with its Preliminary Staff Assessment / Final Staff Assessment process. The CEC's Staff Assessment is the environmental equivalent of an Environmental Impact Report (EIR).
2. The CEC's Staff Assessment prepared for the thermal power plant site or facility, shall include the environmental impact, if any, of the early activities described in CEQA Guidelines, Section 15271(a).
  - a. The CEC's Preliminary and Final Staff Assessment shall include analysis of environmental impacts, if any, as is provided for and analyzed in an EIR.
3. The CEC has been requested by the applicant, E & L Westcoast, LLC, to approve the thermal power plant and shifts the responsibility for preparing the document to the regulatory agency. [CEQA Guidelines, Section 15271(c).

**Section 2: General Plan Amendment Findings.**

1. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to a central portion of the 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.
  - d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan

and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]

2. The project is consistent with the General Plan land use designation for Industrial.
3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:
  - A. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.
  - B. Community Services: Objective (j) – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
  - C. Resource Conservation: Objective (i) – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
  - D. Economic Development: Objective (a) – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
  - E. Economic Development: Objective (f) – To encourage new industries which offer stable, year-round employment.
  - F. Economic Development: Objective (g) – To promote development which improves the local tax base.
  - G. Economic Development: Objective (j) -- To locate new industry in such a way that the impact on existing communities is minimized. and interference with agricultural operations is minimized.
  - H. Economic Development: Objective (s) – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

### Section 3: Zoning Ordinance Findings:

1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
2. The area to be rezoned to Industrial shall consist of a central portion of the 50-acres of the proposed new 100-acre parcel from a 451+/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.
4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**RECOMMENDED ACTIONS:**

Staff recommends that the Board of Supervisors approve the following actions, subject to the findings listed above, and conditions in Exhibit A:

1. Consider Notice of Exemption (NOE) for a statutory exemption to CEQA. Move to approve/certify a Statutory Exemption to CEQA as provided for under CEQA Guidelines, Section 15271(a)(1) and Section 15271(c) – *Early Activities Related to Thermal Power Plants*.
2. Consider/Adoption of Resolution amending the General Plan land use designation from Agriculture-General to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.
3. Consider First Reading of Ordinance amending Ordinance No. 534, to rezone a central portion of 50-acres of a proposed 100-acre parcel, from Exclusive-Agriculture to Industrial, for E & L Westcoast, LLC, on APN 011-040-024.

**EXHIBIT A**  
**GENERAL PLAN AMENDMENT**  
**&**  
**ZONING AMENDMENT**

**CONDITIONS OF APPROVAL:**

**General Plan Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. Approval of the amendment to the general plan land use designation from Agriculture-General to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.
3. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area redesignated to Industrial, shall retain its current general plan land use designation of Agriculture-General.
4. The approval of the amendment of the general plan land use designation from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
5. The approval of the amendment of the general plan from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.

### Zoning Amendment

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the zoning classification from Exclusive-Agriculture to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area rezoned to Industrial, shall retain its current zoning classification of Exclusive-Agriculture.
4. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect upon approval by the California Energy Commission.
5. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.
7. Approval of the amendment to the zoning classification from Exclusive-Agriculture to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.



STEPHEN M. HACKNEY, ACP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION

220 1<sup>st</sup> Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

## COLUSA COUNTY PLANNING COMMISSION AGENDA REPORT: General Plan & Zoning Amendments [REVISED] - SEPTEMBER 10, 2007

---

**APPLICANT:** E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.

**FILE #:** GPA#07-2-1 (ED#-07-48) / ZA#07-2-1 (ED#07-48)

**REQUEST:**

- 1) Amend the general plan land use designation from *Agriculture General* to *Industrial* on a new 100-acre parcel located on APN 011-040-024;
- 2) Amend the zoning classification from *Exclusive Agriculture* to *Industrial* on a new 100-acre parcel located on APN 011-040-024;

**GENERAL PLAN:** Agriculture General (current)

**ZONING:** Exclusive Agriculture (current)

**APN:** 011-040-024, -023, and -022

**LOCATION:** The proposed project site is to be located on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. The site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the City of Williams, and 4-miles west of Interstate 5, in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road, in Section 35, Township 18N, Range 4W, MDB and M, in the Maxwell area, identified as APNs #011-040-024, -023, and -022.

**PARCEL SIZE:** Current parcel is 451-acres. Proposed project is to be located on a new parcel to be created of 100-acres.

**EXHIBIT A:** Conditions of Approval

**ATTACHMENTS:** See attachments provided in August 27, 2007 Planning Commission packet.

---

**STAFF COMMENT:** Recommend to the Planning Commission the following actions:

1. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation on 50-acres of land currently designated Agriculture-General to Industrial on APN 011-040-024.
2. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification on 50-acres of land currently classified Exclusive-Agriculture to Industrial on APN 011-040-024.

**PROJECT AND SITE DESCRIPTION:**

A General Plan Amendment is requested to change the existing land use designation on the proposed 100-acre parcel from Agriculture General (A-G) to Industrial (I).

A Zoning Amendment is requested to change the existing zoning on the proposed 100-acre parcel from Exclusive Agriculture (E-A) to Industrial (M).

*Project Objective.* The objective of the proposed project is to construct and operate a natural gas fired combined cycle power plant capable of providing a nominal 660 Megawatt (Mw) of electricity to the California electrical grid. with commercial operation planned by Spring 2010.

*Project Components.* The proposed Colusa Generating Station (power plant) will consist of a natural gas-fired combined cycle power plant, a 230Kv switchyard, and associated linear facilities. The project will have a nominal electrical output of 660 Mw. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch diameter, 1,500-foot long pipeline that will be owned and operated by PG&E. Water for the project will be supplied by the Glenn-Colusa Irrigation District and wheeled to the Tehama-Colusa Canal from where it will be conveyed to the power plant via a 2,700-foot long water supply pipeline. Plant wastewater will be processed by a zero liquid discharge system; sanitary wastewater will be discharged to a septic system served by a leach field.

The power plant and switchyard will occupy approximately 31-acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot wide extension of the existing PG&E Road Easement 295 Official Record 442. A 20-foot wide, paved perimeter road would provide access to the power generation facility. Approximately 17-fenced acres are required to accommodate the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Each building is pre-engineered. Two Heat Recovery Steam Generator (HRSG) stacks will be 19-feet in diameter and 175-feet tall. See "Supplement to the Project Description" Table 1: Proposed Structures Exceeding 100 Feet in Height.

### Environmental Setting:

The site is presently undeveloped agricultural land used for grazing cattle. Site topography is rolling hills which range from 170 to 190-feet above mean sea level. The area for the power plant is relatively level with slope variations from 3% to 7% average. The proposed power plant site is located in the northern part of the Colusa County, in an area that transitions from irrigated farmland to non-irrigated grazing land as one moves west from Interstate 5 toward the foothills. Descriptions and properties of the soil types are provided in Table 3 and on Figure 3 in the Use Permit application. Plant and animal species observed in the project area and immediate vicinity are shown in Tables 4 and 5 of the Use Permit application. There are no existing structures on the site, and there are no known archaeological resources.

The immediately surrounding properties consist of the PG&E Compressor Station, and land that is currently used for open space, cattle grazing or irrigated crops. PG&E's 230 Kv transmission lines lie about 1,800-feet east of the site. The Glenn-Colusa Canal lies about 2400-feet to the east of the site. Scattered residences are located at distances of 1.5 miles or more. Plant and animal information is provided in Tables 4 and 5 in the Use Permit application and is valid for the surrounding area. The surrounding area also includes a vernal pool complex north and east of the PG&E Compressor Station, located approximately 945-feet east of the site.

### ANALYSIS:

#### *Area and acreage to be rezoned and given an amended land use designation and zoning classification.*

The proposed area and acreage in which the County's current general plan land use designation and zoning classification is to be amended -- from agriculture to industrial -- has been cause for some questions and concerns. The applicant has applied for a tentative parcel map to create a new 100-acre parcel from a 451+/- acre area of the 4800+/- acre Holthouse property. The proposed power plant is to be located on the newly created 100-acre parcel. The applicant has requested the new general plan land use designation of Industrial, and the new zoning classification of Industrial be applied to the whole of the proposed 100-acre parcel. The application documents, provided by Competitive Power Venture's, Inc., states that 31-acres are necessary for the building envelope for the power plant facilities, including the switching yard. While additional acreage may be necessary for set-up purposes, such a use would be temporary and does not require a permanent amended land use designation or a rezone.

Concern has been expressed to staff that acreage beyond what is necessary for the actual building envelope of 31-acres raises questions about future uses on the balance of the newly created 100-acre parcel. The concern expressed to staff is that additional expansion or additions of more power plants on the 100-acre parcel should be processed separately from the current application. The manner in which to assure this will be done is to require any additional power plants be required to apply for further land use entitlements. The applicant's representative has assured staff that there are no future plans to construct anything more than what is being asked for with the current applications. Staff acknowledges that some additional acreage may be necessary for a buffer area, areas for septic disposal and replacement area for leach fields, easement acreages for the proposed transmission lattice towers and transmission line interconnections, access roads, the proposed water line, the proposed natural gas pipeline, and for the storm water detention basin.

County staff has determined that one manner in which to meet the applicant's development needs, while alleviating public and private concerns over multiple power plants being constructed at this site, is to recommend that only a central portion of 50-acres of the proposed 100-acre parcel be changed with a general plan amendment and a zoning amendment to Industrial use. The surrounding portion of the 100-acre parcel should remain as it is, with a general plan land use designation of A-G, and a zoning classification of E-A. The necessity for the rezoning of the additional acreage beyond the 31-acre footprint does not appear to be necessary or warranted. Additionally, the CEC's Staff Assessment analyzes potential environmental impacts presented in the applicant's Application For Certification, dated December 6, 2006. Such potentially significant issues such as air quality emissions, for example, are being analyzed based upon the proposed two combustion turbines, one steam turbine, and air cooled condenser configuration as presented both to the CEC and to County staff. Any expansion of the air cooled condenser, additional turbines, and additional exhaust stacks would not have been considered in the PSA/FSA.

**General Plan and Zoning amendment(s):**

The current General Plan land use designation is Agriculture-General (A-G). Land carrying this designation is generally used for orchard and crop production. Residences in these areas are related to agricultural operations. Secondary uses in the A-G areas include oil and gas drilling, non-intensive recreation, agricultural industry (processing), and agricultural support uses, provided that these uses do not interfere with the viability of agriculture or create environmental hazards.

The current Zoning classification is Exclusive Agriculture (E-A). The E-A zone is intended to be applied in areas of fertile soils and areas where agriculture is the natural and desirable primary land use, and in which areas the protection of agriculture from the encroachment of incompatible uses is essential to the general welfare.

*Request for Industrial general plan land use designation and Industrial zoning classification.* The application for the Colusa Generating Station is for a land use activity that is inconsistent with the current General Plan land use designation of A-G and the zoning classification of the E-A zone. The applicant has, therefore, submitted the necessary applications requiring a general plan amendment and zoning amendment to an appropriate and consistent land use designation and zoning classification. The applicant has applied for an amendment to change the land use designation on a proposed 100-acre parcel to Industrial (I), and to amend the zoning classification to Industrial (M) zone. With approval of the general plan amendment and zoning classification amendment, the applicant's proposed project, the proposed use of the land for the construction and operation of a natural gas driven power plant, will be consistent with the new Industrial land use designation and zoning classification.

The project proposal, the construction of a 660 Mw power plant, is presently inconsistent with the County's General Plan land use element and Zoning Code. The appropriate manner in which to make the proposed project consistent with the County's land use regulations is to modify the land use designation and zoning classification. The CEC is looking to the County for its advice as to whether the County is interested in amending its general plan and zoning to provide for the power plant in its present proposed location. Hence, the applicant has submitted applications for a general plan amendment and zoning amendment.

**CEQA:**

The Planning Commission is not required to make CEQA findings or an environmental determination on a policy issue recommendation only. The Board of Supervisors, in its deliberations, and prior to a decision on amending the general plan and zoning code, is required to make a CEQA decision.

*Relationship of Authority between the California Energy Commission (CEC) and County Government.*

The authority for siting, approving, licensing, and certifying a thermal power plant in the State of California resides solely and completely with the California Energy Commission (Public Resources Code Section 25500 et al.).

*... the commission shall have the exclusive power to certify all sites and related facilities in the state . . . . (PRC §25500)*

The Public Resources Code (PRC) requires that a CEC decision include findings based upon an analysis of whether or not the project conforms to local requirements.

*Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission . . . and with other applicable local, regional, state, and federal standards, ordinances, or laws . . . . (PRC §25523(d)(1))*

The question is presented that if the project did have to obtain local approval, could it do so? The CEC looks to the County to assist in answering this question. For this reason, the applicant files all information necessary that is required to obtain a local approval even though the applicant does not need local approval. The CEC looks to the County to provide what is essentially an advisory opinion on whether or not the County would issue the local approval if it had the authority to do so. If the CEC finds that there is noncompliance with a local requirement, then the CEC must meet and consult with the local agency in an attempt to correct or eliminate the noncompliance.

*If the commission finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. (PRC §25523(d)(1))*

**The "Override" Authority.** In the event that any noncompliance cannot be resolved, the CEC may still approve the proposed power plant. The "override" authority is set forth in Public Resources Code Section 25525, which states:

*The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. [emphasis added] In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.*

If a local agency (County) prefers not to approve a general plan amendment and zoning amendment wherein the proposed power plant would be consistent with local land use ordinances, the commission has the authority to approve the project anyway, with findings. The commission does not invoke its override authority frequently, but it does happen. The most recent example where the CEC invoked its override authority on zoning issues occurred in the October 2006 CEC decision on the Los Esteros project in the City of San Jose.

Neither the applicant nor the commission have suggested nor intimated that the commission would invoke such authority in the processing of the applicant's proposed project. The County has required of the applicant all the necessary documents, data, information, maps, and so forth, as it would from any other applicant seeking the same types of entitlements. The County has asked for, perhaps, more information and a greater level of detail involving the project, because of the nature of the project, its land use, and its unique characteristics from any other land uses. The applicant has provided all information the County staff has requested.

*California Energy Commission's Preliminary and Final Staff Assessments.* The PRC Section 25523 grants the CEC the authority to approve a proposed power plant even if it does not conform to local requirements, including general plan land use designations and zoning classifications, provided that it makes the findings necessary to do so. In order to make the necessary findings, the CEC staff performs a Preliminary Staff Assessment (PSA) and a Final Staff Assessment (FSA). The CEC's Staff Assessment holds the equivalency of a California Environmental Quality Act (CEQA) environmental impact report (EIR) under state code. The CEC does not prefer to employ this approach in considering projects, but rather the commission looks to the local jurisdiction, the County, for advice in order to understand the County's preferences. If there are potentially significant issues, concerns, or problems unforeseen from the commission's perspective, then it relies on the County to bring forward those potential issues so that they may be identified and addressed. This is the rationale behind the state code requiring the commission to consult and meet with the County.

## **FINDINGS:**

### **Section 1: General Plan Amendment Findings.**

- I. Find the General Plan Amendment to be in the public interest in accordance with California Government Code Section 65358 based upon the following factors:**
  - a. The project will not result in the loss of significant amounts of grazing land, on land presently having a general plan land use designation of Agriculture-General, and upon which the land has historically, and presently, being used for cattle grazing.**
  - b. The General Plan Amendment requesting a change from Agriculture-General to Industrial shall only apply to a central portion of the 50-acre portion of a proposed 100-acre parcel that is part of a 451+/- acre parcel, APN 011-040-024, and part of a 4,800+/- acre area known as Holthouse Ranch, on which cattle grazing is the primary land use.**
  - c. The balance of the Holthouse Ranch, minus the 100-acre newly created parcel, shall continue to be used for cattle grazing.**

- d. The County Board of Supervisors has, in its efforts to promote industrial development, job creation, and seeking to increase property values, has supported and encouraged such general plan amendment actions as is being proposed by this project. [See Xaba Ranch GPA & ZA for Fundamental Software, Carl Ross; application for general plan and zoning amendments for Industrial use in Agriculture-General designated land and in Agriculture-Preserve zoning classification, 2005.]
2. The project is consistent with the General Plan land use designation for Industrial.
  3. The application request is consistent with the Goals And Objectives chapter of the Colusa County General Plan:
    - A. Land Use: Objective (h) – To promote a streamlined and non-bureaucratic permitting and approval process without compromising the enforcement of local land use regulations.
    - B. Community Services: Objective (j) – To acquire sites for the expansion or construction of public facilities in anticipation of future needs.
    - C. Resource Conservation: Objective (i) – To promote zoning, planning, and taxation policies which preserve agricultural land, hillsides, and watershed areas.
    - D. Economic Development: Objective (a) – To give priority to industry which is compatible with agriculture or which is based on the processing or distribution of agricultural commodities.
    - E. Economic Development: Objective (f) – To encourage new industries which offer stable, year-round employment.
    - F. Economic Development: Objective (g) – To promote development which improves the local tax base.
    - G. Economic Development: Objective (j) -- To locate new industry in such a way that the impact on existing communities is minimized, and interference with agricultural operations is minimized.
    - H. Economic Development: Objective (s) – To recognize the fiscal benefits of a diversified tax base without losing sight of the real fiscal, environmental, and social costs of growth.

**Section 2: Zoning Ordinance Findings:**

1. The project is consistent with the Zoning classification for Industrial.
  - a. The project consists of construction and operation of a 600 Mw natural gas fired electrical power plant, which is a consistent land use under the Industrial zoning classification.
2. The area to be rezoned to Industrial shall consist of a central portion of the 50-acres of the proposed new 100-acre parcel from a 451 +/- acre parcel, APN 011-040-024, which is part of the larger 4,800-acre Holthouse Ranch.
3. Development standards for Industrial uses listed in the County's Zoning Code shall be applicable.

4. Future development of the property, the proposed 660 Mw power plant, shall meet Colusa County Environmental Health requirements for sewage disposal and drinking water provisions.

**RECOMMENDED ACTIONS:**

Staff recommends that the Planning Commission, by resolution, recommend to the Board of Supervisors approval of the following actions, subject to the findings listed above, and conditions in Exhibit A:

- I. Recommend approval by Resolution to the Board of Supervisors an Amendment to the General Plan land use designation, from Agriculture-General to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.
- J. Recommend approval by Resolution to the Board of Supervisors an Amendment to the Zoning classification, from Exclusive-Agriculture to Industrial, on a central portion of 50-acres of a proposed 100-acre parcel, for E & L Westcoast, LLC, on APN 011-040-024.

**EXHIBIT A**  
**GENERAL PLAN AMENDMENT**  
**&**  
**ZONING AMENDMENT**

**CONDITIONS OF APPROVAL:**

**General Plan Amendment**

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. Approval of the amendment to the general plan land use designation from Agriculture-General to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.
3. The amendment to the general plan land use designation from Agriculture-General to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area redesignated to Industrial, shall retain its current general plan land use designation of Agriculture-General.
4. The approval of the amendment of the general plan land use designation from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect if the California Energy Commission completes a Final Staff Assessment (FSA) with a recommendation by CEC staff to approve, and the California Energy Commission, based upon the FSA staff recommendations, approves, certifies, and licenses the Colusa Generating Station.
5. The approval of the amendment of the general plan from Agriculture-General to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures in the FSA that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.

6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.

#### Zoning Amendment

1. The applicant agrees, as a condition of issuance and use of this entitlement, to indemnify and defend the County, at applicant's sole cost and expense, in any claim, action or proceeding brought against the County within 180-days after the issuance of this entitlement because of, or resulting from, any preliminary approval or actual issuance of this entitlement, or, in the alternative, to relinquish such entitlement. Applicant will reimburse the County for any damages, court costs and attorney fees which the County may be required by a court to pay as a result of such claim, action or proceeding. The County shall promptly notify the applicant of any such claim, action, or proceeding and will cooperate in its defense. The County may also, at its sole discretion, participate in the defense of any such claim, action, or proceeding but such participation shall not relieve applicant of its obligations under this condition.
2. The amendment to the zoning classification from Exclusive-Agriculture to Industrial shall only apply to a central portion of 50-acres of the newly created 100-acre parcel on APN 011-040-024. The 50-acre balance of the newly created 100-acre parcel, that area surrounding the 50-acre area rezoned to Industrial, shall retain its current zoning classification of Exclusive-Agriculture.
4. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect if the California Energy Commission completes a Final Staff Assessment (FSA) with a recommendation by CEC staff to approve, and the California Energy Commission, based upon the FSA staff recommendations, approves, certifies, and licenses the Colusa Generating Station.
5. The approval of the amendment of the zoning classification from Exclusive-Agriculture to Industrial, on the central portion of 50-acres of the proposed 100-acre parcel, shall only take effect with the California Energy Commission's analysis and approval of appropriate mitigation measures in the FSA that fully mitigate any and all potential impacts to the Maxwell Fire Protection District.
6. The applicant shall implement the project with all the design features presented in the application and discussed and presented in the applicant's Application For Certification to the CEC, and implement all conditions in the CEC's Final Staff Assessment.
7. Approval of the amendment to the zoning classification from Exclusive-Agriculture to Industrial shall be conditioned as follows: the Development Agreement, between the County and applicant shall be binding on the applicant, its assignees, and successors in interest and is intended to run with the land. The Development Agreement shall be recorded with the County Recorder, and will run with the land to which it relates.

SUN HERALD PLEASE PUBLISH: October 12, 2007.  
POSTED AT COURTHOUSE: October 9, 2007.

ORDINANCE NO. 713

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF COLUSA AMENDING ORDINANCE NO. 534 (THE COLUSA COUNTY ZONING ORDINANCE) REZONING CERTAIN PROPERTY UNDER ZONING AMENDMENT NO. 07-2-1 FOR COLUSA COUNTY DEPARTMENT OF PLANNING & BUILDING.

THE BOARD OF SUPERVISORS OF THE COUNTY OF COLUSA ordains as follows:

SECTION 1.

Article 3, Section 3.05A, Amendment No. 25, is hereby added to Ordinance No. 534 and hereby rezones the following subject real properties under Zoning Amendment #07-2-1 from Exclusive Agriculture (E-A) to Industrial (M) as shown on the maps which are attached hereto and made a part hereof by reference as Exhibit "A", and identified as a portion of Assessor's Parcel Number listed and shown on Exhibit "A" with the corresponding change in the zoning district.

SECTION 2.

This Ordinance shall take effect thirty (30) days after the date of its adoption and prior to the expiration of fifteen (15) days from the passage thereof shall be published at least once in the Colusa Sun Herald, a newspaper of general circulation in the County of Colusa, and thenceforth and thereafter the same shall be in full force and effect.

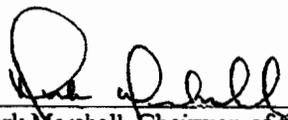
The foregoing ordinance was introduced at a general meeting of the Colusa County Board of Supervisors on September 18, 2007, and

PASSED AND ADOPTED this 2nd day of October, 2007, by the following vote:

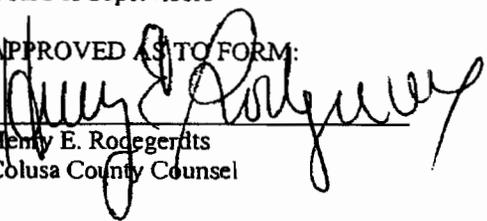
AYES: Supervisors Indrieri, Vann and Marshall.

NOES: Supervisor Evans.

ABSENT: Supervisor Yerxa.

  
\_\_\_\_\_  
Mark Marshall, Chairman of the  
Board of Supervisors

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Henry E. Rodegerdts  
Colusa County Counsel

ATTEST:  
KATHLEEN MORAN, County Clerk and ex-officio  
Clerk to the Board of Supervisors

By:   
\_\_\_\_\_

**HP OfficeJet K Series K60xi  
Personal Printer/Fax/Copier/Scanner**

**Log for  
Board Clerk 1  
94580510  
Oct 09 2007 10:41am**

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**Last Transaction**

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Oct 9	10:39am	Fax Sent	99346815	1:38	4	OK

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ORDINANCE NO. 714

**AN ORDINANCE OF THE COUNTY OF COLUSA APPROVING THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE COUNTY OF COLUSA AND E & L WESTCOAST, LLC, A SUBSIDIARY OF COMPETITIVE POWER VENTURES, INC. FOR THE COLUSA GENERATING STATION**

The Board of Supervisors of the County of Colusa ordains as follows:

Section 1. This Ordinance incorporates, and by this reference as Exhibit A makes a part hereof, that certain Development Agreement, substantially in the form on file with the Clerk of the Board of Supervisors (the "Development Agreement"), by and between the County of Colusa (the "County") and E & L Westcoast, LLC (the "Developer"), relative to the development of certain real property (the "Property") within the County.

Section 2. This Ordinance is adopted under the authority of Government Code Section 65864 *et seq.* (the "Development Agreement Legislation").

Section 3. In accordance with the Development Agreement Legislation, the Board of Supervisors hereby finds and determines that the Development Agreement is consistent with the Colusa County General Plan and County Ordinance No. 534 (the "Zoning Ordinance"), and that the Development Agreement will promote the public health, safety and general welfare. This finding is based upon Resolution No. 07-051, adopted by the Board of Supervisors on September 18, 2007, amending the General Plan of the County and approving a specific revision to the General Plan Land Use Element for the development of the Property, Ordinance No. 713, approving an amendment to the Zoning Ordinance to allow for the development of the Property. The development of the Property pursuant to the foregoing actions of the Board of Supervisors and the Development Agreement is referred to in Section 4 hereof as the "Project."

Section 4. A Statutory Exemption pertaining to the actions referred to in Section 3 hereof pertaining to development of the Property covered by the

Development Agreement, was approved and certified by Resolution No. 07-051, adopted by the Board of Supervisors on September 18, 2007.

Section 5. The Board of Supervisors of the County of Colusa hereby approves the Development Agreement, with authorized changes, substantially in the form on file with the Clerk of the Board of Supervisors, subject to the provisions of Section 8 hereof, and subject further to such minor and clarifying changes consistent with the terms thereof as may be approved by the County Counsel prior to execution thereof, including but not limited to completion of references and status of planning approvals, and completion and conformity of all exhibits thereto and conformity to the actions of the Board of Supervisors referred to in Sections 3 and 4 hereof.

Section 6. Upon the effective date of this Ordinance as provided in Section 7 hereof, and subject to verification to the satisfaction of the Director of Planning and Building and the advice of the County Counsel of the good standing of the Developer and its general partners to conduct business in the State of California, the Developer's ownership interests in the Property as defined and set forth in the Development Agreement, and the Developer's authority to enter into the Development Agreement, the Chairman of the Board of Supervisors is hereby authorized and directed to execute the Development Agreement on behalf of the County of Colusa.

Section 7. This Ordinance shall be in full force and effect thirty (30) days after its passage and adoption. The effective date of the Development Agreement shall be the effective date of this Ordinance or as otherwise determined under the provisions of the Development Agreement.

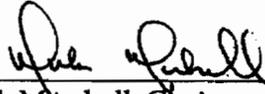
Section 8. Within ten (10) days after entering into the Development Agreement on behalf of the County, the Director of Planning and Building shall record the Development Agreement and this Ordinance with the Recorder of the County of Colusa.

The foregoing Ordinance was introduced at a meeting of the Board of Supervisors held the 18th day of September, 2007, and finally passed and adopted by said Board of Supervisors at the regular meeting held on the 2nd day of October, 2007, by the following vote:

AYES: Supervisors Evans, Indrieri, Vann and Marshall.

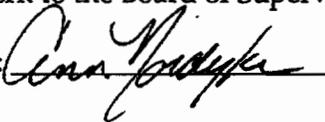
NOES: None.

ABSENT: Supervisor Yerxa.

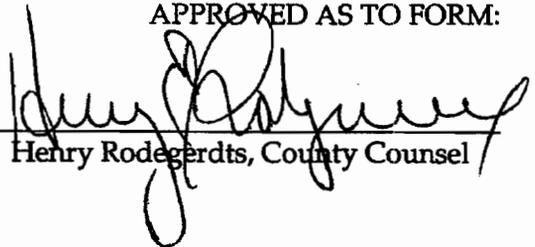


\_\_\_\_\_  
Mark Marshall, Chairman of the Board of Supervisors, County of Colusa, State of California.

ATTEST: Kathleen Moran  
County Clerk and ex officio  
Clerk to the Board of Supervisors

By:  Deputy

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Henry Rodegerdts, County Counsel

HP OfficeJet K Series K60xi  
Personal Printer/Fax/Copier/Scanner

Log for  
Board Clerk 1  
94580510  
Oct 09 2007 10:43am

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**Last Transaction**

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Oct 9	10:39am	Fax Sent	99346815	1:38	4	OK

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*Fort County  
Newspaper*

Exhibit A

Proposed Development Agreement

C07-259a



2007-0005392

Recording Requested By

E+L WESTCOAST, LLC

WHEN RECORDED, MAIL TO:

NAME COUNTY OF COLUSA  
MAILING BOARD OF  
ADDRESS SUPERVISORS

CITY, STATE  
ZIP CODE

Recorded | REC FEE 100.00  
Official Records |  
County of | 049 CASH OVERAGE 6.00  
Colusa |  
KATHLEEN MORAN |  
Clerk-Recorder |

12:04PM 12-Oct-2007 | R6 Page 1 of 32

SPACE ABOVE THIS LINE RESERVED  
FOR RECORDERS USE

(APN #): \_\_\_\_\_

TITLE(S)

DEVELOPMENT AGREEMENT

**DEVELOPMENT AGREEMENT**

**by and between**

**THE COUNTY OF COLUSA**

**and**

**E&L WESTCOAST, LLC**

**dated as of**

**September 18, 2007**

**DEVELOPMENT AGREEMENT**

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## **DEVELOPMENT AGREEMENT**

This Development Agreement ("Agreement"), dated as of September 18, 2007, is entered by and between the COUNTY OF COLUSA, a body corporate and a political subdivision of the State of California ("County"), and E&L WESTCOAST, LLC, a Delaware limited partnership ("E&L Westcoast"), pursuant to California Government Code Section 65864 *et seq.*, with respect to the following:

### **RECITALS**

WHEREAS, E&L Westcoast proposes to develop a nominal 660 megawatt combined cycle power plant within the County of Colusa, known as the Colusa Generating Station; and

WHEREAS, the proposed location of the Colusa Generating Station is currently designated Agricultural-General in the County General Plan and zoned Exclusive Agriculture in the County Zoning Ordinance; and

WHEREAS, the County and E&L Westcoast recognize that development of the Colusa Generating Station within the County will provide much-needed energy to the State of California and contribute significantly to the economy of the County; and

WHEREAS, E&L Westcoast will provide and implement public benefits above and beyond mitigation measures necessary to address potential impacts associated with the Colusa Generating Station; and

WHEREAS, the County wishes to obtain reasonable assurances that E&L Westcoast will provide and implement the public benefits in accordance with the terms of this Agreement; and

WHEREAS, E&L Westcoast wishes to obtain reasonable assurances that the Colusa Generating Station may be developed in accordance with the terms of this Agreement and as proposed in the Application for Certification submitted to the California Energy Commission; and

WHEREAS, E&L Westcoast wishes to obtain reasonable assurances that the County will expeditiously approve the Land Use Approvals (as defined below) and otherwise cooperate with E&L Westcoast in the permitting and development of the Colusa Generating Station; and

WHEREAS, the Glenn Colusa Irrigation District will provide water to the Colusa Generating Station through a transfer agreement with the County, which will then deliver water to the Colusa Generating Station via the Tehama Colusa Canal ("County Water Agreement").

## **AGREEMENT**

NOW, THEREFORE, pursuant to the authority contained in the Development Agreement Act, as it applies to the County, and in consideration of the premises and mutual promises and covenants herein contained and other valuable consideration the receipt and adequacy of which the Parties hereby acknowledge, the Parties agree as follows:

### **1. DEFINITIONS.**

For all purposes of this Agreement, except as otherwise expressly provided or unless the context requires otherwise:

**1.1** "Application for Certification" is the application for certification of the Project and related facilities submitted by the Project Developer to the California Energy Commission on November 6, 2006, and all amendments, modifications, and supplements thereto.

**1.2** "Agreement" means this Development Agreement and all amendments and modifications thereto.

**1.3** "Applicable Rules" means the rules, regulations, ordinances, and officially adopted policies of the County in force as of January 1, 2007 that are generally applicable to all or some properties within the County.

**1.4** "California Energy Commission" or "CEC" means the State Energy Resources Conservation and Development Commission established pursuant to the Warren-Alquist Act.

**1.5** "CEC Certification" means a certification for the construction of the Project and related facilities issued by the California Energy Commission pursuant to the Warren-Alquist Act and its implementing regulations.

**1.6** "County" means the County of Colusa, a body corporate and a political subdivision of the State of California.

**1.7** "County Agency" means each and every agency, department, board, commission, authority, employee, and/or official acting under the authority of the County, including without limitation the County Board of Supervisors and the Planning Commission.

**1.8** "County Board of Supervisors" means the Board of Supervisors of the County and the legislative body of the County pursuant to Section 65867 of the California Government Code.

**1.9** "Development Agreement Act" means Article 2.5 of Chapter 4 of Division 1 of Title 7 (Sections 65864 through 65869.5) of the California Government Code.

**1.10** “Discretionary Action” means an action that requires the exercise of judgment, deliberation or a decision on the part of the County and/or any County Agency, in the process of approving or disapproving a particular activity, as distinguished from an activity that merely requires the County and/or any County Agency, to determine whether there has been compliance with statutes, ordinances, or regulations.

**1.11** “Effective Date” means the date on which this Agreement shall be effective in accordance with Section 5.1 hereof.

**1.12** “Fees” means Impact Fees, Processing Fees and any other fees or charges imposed or collected by the County.

**1.13** “Impact Fees” means impact fees, linkage fees, exactions, assessments or fair share charges or other similar impact fees or charges imposed on and in connection with new development by the County pursuant to rules, regulations, ordinances and policies of the County. Impact Fees do not include (i) Processing Fees or (ii) other County-wide fees or charges of general applicability, provided that such County-wide fees or charges are not imposed on impacts of new development.

**1.14** “Land Use Approvals” means those Discretionary Actions to be taken by the County authorizing the Project, including, but not limited to, the approval of a General Plan Amendment, a Zoning Amendment, a Tentative Parcel Map, an advisory Use Permit and the County Water Agreement as listed in Exhibit A, Land Use Approvals. Land Use Approvals also include any subsequent Discretionary Actions that are necessary for implementation of the Project.

**1.15** “Ministerial Permits and Approvals” means the permits, approvals, plans, inspections, certificates, documents, licenses, and all other actions, if any, required to be taken by the County and/or County Agency in order for the Project Developer to implement, develop and construct the Project in accordance with the CEC Certification, including without limitation, building permits, foundation permits, public works permits, grading permits, stockpile permits, encroachment permits, and other similar permits and approvals that may be required. Ministerial Permits and Approvals shall not include any Discretionary Actions.

**1.16** “Parties” means, collectively, E&L Westcoast and the County.

**1.17** “Party” means either E&L Westcoast or the County.

**1.18** “Planning Commission” means the County Planning Commission and the planning agency of the County pursuant to Section 65867 of the California Government Code.

**1.19** “Planning Director” means the Planning Director for the County.

**1.20** "Processing Fees" means all processing fees and charges required by the County or any County Agency including, but not limited to, fees for land use applications, project permits, building applications, building permits, grading permits, encroachment permits, tract or parcel maps, lot line adjustments, air right lots, street vacations, and certificates of occupancy that are necessary to accomplish the intent and purpose of this Agreement. Expressly exempted from Processing Fees are all Impact Fees that may be imposed by the County on development projects. The amount of the Processing Fees to be applied in connection with the development of the Project shall be the amount that is in effect on a County-wide basis at the time an application for the County action is made.

**1.21** "Project" means a nominal 660-megawatt natural gas-fired combined-cycle power plant, a 230-kilovolt switchyard, and all appurtenant facilities as described in the Application for Certification submitted by E&L Westcoast to the California Energy Commission.

**1.22** "Property" means the real property on which the Project will be located, as described in Exhibit B.

**1.23** "Project Developer" means E&L Westcoast or successors and assignees as described in Section 5.7.

**1.24** "Reserved Powers" means the rights and authority excepted from this Agreement's restrictions on the County's police powers and which are instead reserved to the County. The Reserved Powers include the powers to enact regulations or take future Discretionary Actions after the Effective Date of this Agreement that may be in conflict with the Applicable Rules and Land Use Approvals, but: (1) are necessary to protect the public health and safety, and are generally applicable on a County-wide basis (except in the event of natural disasters as found by the Board of Supervisors such as floods, earthquakes and similar acts of God); (2) are amendments to Uniform Codes regarding the construction, engineering and design standards for private and public improvements to be constructed on the Property; or (3) are necessary to comply with state or federal laws and regulations (whether enacted previous or subsequent to the Effective Date of this Agreement) as provided in Section 3.2.3.3. The Reserved Powers are limited by the authority of the California Energy Commission with respect to the siting of thermal power plants as set forth in the Warren-Alquist Act.

**1.25** "Term" means the period of time for which this Agreement shall be effective in accordance with Section 5.2 hereof.

**1.26** "Uniform Codes" means those building, electrical, mechanical, plumbing, fire and other similar regulations of a County-wide scope that are based on recommendations of a multi-state professional organization and become applicable throughout the County, such as, but not limited to, the Uniform Building Code, the Uniform Electrical Code, the Uniform Mechanical Code, Uniform Plumbing Code, or the Uniform Fire Code (including those amendments to the promulgated uniform codes that reflect local modification to implement the published recommendations of the multi-state organization and that are applicable County-wide).

**1.27** "Warren-Alquist Act" means the Warren-Alquist State Energy Resources Conservation and Development Act (Cal. Public Resources Code section 25000 et seq.).

## **2. RECITALS OF PREMISES, PURPOSE AND INTENT.**

**2.1 State Enabling Statute.** To strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the Legislature of the State of California adopted the Development Agreement Act, which authorizes any County to enter into binding development agreements establishing certain development rights in real property with persons having legal or equitable interests in such property. Section 65864 of the Development Agreement Act expressly provides as follows:

“The Legislature finds and declares that:

“(a) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and a commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(b) Assurance to the applicant for a development project that upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules and regulations, and subject to conditions of approval will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development.”

Notwithstanding the foregoing, to ensure that the County remains responsive and accountable to its residents while pursuing the benefits of development agreements contemplated by the Legislature, the County: (1) accepts restraints on its police powers contained in development agreements only to the extent and for the duration required to achieve the mutual objectives of the parties; and (2) to offset such restraints, seeks public benefits that go beyond those obtained by traditional County controls and conditions imposed on development project applications.

### **2.2 County Procedures and Actions.**

**2.2.1 County Planning Commission Action.** The County Planning Commission held duly noticed public hearings on August 27, 2007 and September 10, 2007 and recommended approval of this Agreement on September 10, 2007.

**2.2.2 Board of Supervisors Action.** The Board of Supervisors on September 18, 2007, after conducting a duly-noticed public hearing, adopted Ordinance No. \_\_\_\_\_, to become effective on the thirty-first day after publication, approving this Agreement, and authorized the execution of this Agreement.

## **2.3 Purpose of this Agreement.**

**2.3.1 Public Benefits.** This Agreement provides assurances that the public benefits identified in Section 3.1.3 below will be achieved and developed in accordance with the terms of this Agreement.

**2.3.2 Project Developer Objectives.** In accordance with the legislative findings set forth in the Development Agreement Act, and with full recognition of the County's policy of judicious restraints on its police powers, the Project Developer wishes to obtain reasonable assurances that the Project may be developed in accordance with the Applicable Rules, Land Use Approvals, CEC Certification and with the terms of this Agreement and subject to the County's Reserved Powers. As provided by Section 3.1.1, Project Developer anticipates making capital expenditures or causing capital expenditures to be made in reliance upon this Agreement. In the absence of this Agreement, Project Developer would have no assurance that it can complete the Project for the uses and to the intensity of development set forth in this Agreement and the Land Use Approvals. This Agreement, therefore, is necessary to assure Project Developer that the Project will not be (1) reduced or otherwise modified in intensity or use from what is set forth in the Land Use Approvals, (2) subjected to new rules, regulations, ordinances, or official policies or plans that are not adopted or approved pursuant to the County's Reserved Powers.

**2.3.3 Mutual Objectives.** Development of the Project in accordance with this Development Agreement will provide for the orderly development of the Property. Moreover, a development agreement for the Project will eliminate uncertainty in planning for and securing orderly development of the Property, assure attainment of maximum efficient resource utilization within the County at the least economic cost to its citizens, and otherwise achieve the goals and purposes for which the Development Agreement Act was enacted. The Parties believe that such orderly development of the Project will provide public benefits, as described in Section 3.1.3, to the County under the provisions and conditions of this Agreement. Additionally, although development of the Project in accordance with this Agreement will restrain the County's land use or other relevant police powers, this Agreement provides the County with sufficient reserved powers during the term hereof to remain responsible and accountable to its residents. In exchange for these and other benefits to the County, the Project Developer will receive assurance that the Project may be developed during the term of this Agreement in accordance with the Applicable Rules, Land Use Approvals, CEC Certification and Reserved Powers, subject to the terms and conditions of this Agreement; that the County will expeditiously process the Land Use Approvals, any Discretionary Actions, any Ministerial Permits and Approvals, and any other approvals or actions required for the Project; and that if requested by the Project Developer, the County will affirmatively cooperate in supporting the Project.

**2.4 Applicability of the Agreement.** This Agreement does not: (1) grant density or intensity in excess of that otherwise established in the Land Use Approvals; (2) eliminate future Discretionary Actions relating to the Project if applications requiring such Discretionary Action are initiated and submitted by the Project Developer or its successors after the Effective Date of this Agreement; (3) guarantee that Project Developer will receive any profits from the Project; or (4) in and of itself, amend the County's General Plan. This Agreement has a fixed Term.

### 3. AGREEMENT AND ASSURANCES.

3.1 Agreement and Assurance on the Part of Project Developer. In consideration for the County entering into this Agreement, and as an inducement for the County to obligate itself to carry out the covenants and conditions set forth in this Agreement, and in order to effectuate the premises, purposes and intentions set forth in Section 2 of this Agreement, Project Developer hereby agrees as follows:

3.1.1 Project Development. Project Developer agrees that it will use commercially reasonable efforts, in accordance with its own business judgment and taking into account market conditions and economic considerations, to undertake any development of the Project in accordance with the terms and conditions of this Agreement and the Land Use Approvals.

3.1.2 Timing of Development. The parties acknowledge that Project Developer cannot at this time predict when or at what rate the Project would be developed. Such decisions depend upon numerous factors that are not all within the control of Project Developer, such as market orientation and demand, interest rates and competition. Because the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal. 3d 465 (1984), that the failure of the parties therein to provide for the timing of development permitted a later adopted initiative restricting the timing of development and controlling the Parties' agreement, it is the intent of Project Developer and the County to hereby acknowledge and provide for the right of Project Developer to develop the Project in such order and at such rate and times as Project Developer deems appropriate within the exercise of its sole and subjective business judgment. The County acknowledges that such a right is consistent with the intent, purpose and understanding of the Parties to this Agreement.

3.1.3 Additional Obligations of Project Developer as consideration for This Agreement. The Project will provide local and regional public benefits to the County as follows:

- Prior to commencement of construction, the Project Developer shall make a one time cash payment to the County in the amount of \$500,000.
- Without limiting its ability to take all reasonable and necessary steps to minimize its tax liabilities, the Project Developer will establish a procurement office in an unincorporated area of the County, and to the maximum extent feasible, will procure equipment and materials necessary for the development of the Project in a manner that maximizes the amount of sales tax paid by the Project Developer that is directed to the County.
- Subject to availability and competitive pricing, the Project Developer shall procure materials and services necessary for the development of the Project from vendors whose primary place of business is within the County. Exhibit C attached hereto contains a list of materials and services expected to be procured in connection with the development of the Project.

- The Project Developer will utilize best efforts to work with PG&E during the development of the Project to maximize the availability and penetration within the County of PG&E programs that benefit County residents. Exhibit D attached hereto contains a description of such programs.

**3.2 Agreement and Assurances on the Part of the County.** In consideration for Project Developer entering into this Agreement, and as an inducement for Project Developer to obligate itself to carry out the covenants and conditions set forth in this Agreement, and in order to effectuate the premises, purposes, and intentions set forth in this Agreement, the County hereby agrees as follows:

**3.2.1 Entitlement to Develop.** Project Developer has the vested right to develop the Project subject to the terms and conditions of this Agreement, the Applicable Rules, Land Use Approvals, CEC Certification and the Reserved Powers. Project Developer's vested rights under this Agreement shall include, without limitation, the right to construct and maintain the Project, subject to the Applicable Rules, Land Use Approvals, CEC Certification and Reserved Powers.

**3.2.2 Consistency in Applicable Rules.** Based upon all information made available to the County up to or concurrently with the execution of this Agreement, and subject to approval of the Land Use Approvals, the County finds and certifies that no Applicable Rules prohibit or prevent the full completion and occupancy of the Project as described in the Application for Certification.

**3.2.3 Changes in Applicable Rules.**

**3.2.3.1 Nonapplication of Changes in Applicable Rules.** Any change in, or addition to, the Applicable Rules, including, without limitation, any change in any applicable general or specific plan, zoning or building regulation, adopted or becoming effective after the Effective Date of this Agreement, including, without limitation, any such change by means of ordinance, County Charter amendment, initiative, referendum, resolution, motion, policy, order, or moratorium, initiated or instituted for any reason whatsoever and adopted by the County, the Board of Supervisors, the Planning Commission, or any other Board, Commission, Department, or Agency of the County, or any officer or employee thereof, or by the electorate, as the case may be, which would, absent this Agreement, otherwise be applicable to the Project and which would conflict in any way with the Applicable Rules, Land Use Approvals, CEC Certification or this Agreement, shall not be applied to the Project unless such changes represent an exercise of the County's Reserved Powers, or are otherwise agreed to in this Agreement. Notwithstanding the foregoing, Project Developer may, in its sole discretion, consent to the application to the Project of any change in the Applicable Rules.

**3.2.3.2 Changes in Uniform Codes.** Notwithstanding any provision of this Agreement to the contrary, development of the Project shall be subject to changes that may occur from time to time in the Uniform Codes. The design and construction requirements for an individual action under the Project shall be governed by the Uniform Codes then in effect at the time such action is submitted for review and approval.

**3.2.3.3 Changes Mandated by Federal or State Law.** This Agreement shall not preclude the application to the Project of changes in, or additions to, the Applicable Rules, including rules, regulations, ordinances, and official policies, to the extent that such changes or additions are mandated to be applied to developments such as this Project by state or federal regulations, pursuant to the Reserved Powers. In the event state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

**3.2.4 Subsequent Development Review.** The County shall not require the Project Developer to obtain any approvals or permits for the development of the Project in accordance with this Agreement other than those permits or approvals that are required by the Applicable Rules, the Reserved Powers, and/or the Land Use Approvals, and subject to the siting authority of the California Energy Commission.

**3.2.5 Special Taxes and Assessments.** Project Developer, or its successors, transferees, and/or assignees, as the case may be, shall not, during the Term of this Agreement, as stated in 5.2, apply to the State for reduction in assessment of the Property. Project Developer shall have the right, to the extent permitted by law, to protest, oppose, and vote against any and all special taxes, assessments, levies, charges and/or fees imposed with respect to any assessment districts, Mello-Roos or community facilities districts, maintenance districts, or other similar districts, and the County agrees to cooperate fully in their formation.

**3.2.6 Effective Development Standards.** The County agrees that it is bound to permit the uses, intensities of use, and densities on this Property that are permitted by this Agreement and the Land Use Approvals, insofar as this Agreement and the Land Use Approvals so provide or as otherwise set forth in the Applicable Rules or the Reserved Powers. The County hereby agrees that it will not unreasonably withhold or unreasonably condition any Land Use Approval or other Discretionary Action that must be issued by the County in order for the Project to proceed, provided that Project Developer reasonably and satisfactorily complies with all County-wide standard procedures for processing applications for the Land Use Approval or other Discretionary Action to the extent that such procedures are not superseded by the siting authority of the California Energy Commission.

**3.2.7 Interim Use.** The County agrees that the Project Developer may use the Property during the term of this Agreement for construction of the Project, and for a setup and staging area.

**3.2.8 Moratoria or Interim Control Ordinances.** In the event an ordinance, resolution, or policy, is enacted, by action of the County, that relates directly or indirectly to the Project or to the rate, amount, timing, sequencing, or phasing of the development or construction of the Project on all or any part of the Property, County agrees that such ordinance, resolution, or policy shall not apply to the Property or this Agreement, unless such changes are adopted pursuant to the Reserved Powers or other applicable provisions of this Agreement and are not otherwise superseded by the siting authority of the California Energy Commission.

**3.2.9 Infrastructure Financing.** If Project Developer undertakes infra-structure financing, such as Mello-Roos or community facilities districts, the County will cooperate fully in such endeavors and will process any related applications as expeditiously as possible.

**3.2.10 Impact Fees.** Impact Fees imposed by the County with respect to the Project shall be only those Impact Fees in force and effect as of the January 1, 2007 and as set forth in Exhibit E hereto. Impact Fees imposed by the County on the Project may not be increased in amount. This Agreement shall not limit any impact fees, linkage fees, exaction, assessments, fair share charges, or other similar fees or charges imposed by other governmental entities and which the County is required to collect or assess pursuant to applicable law (e.g., school district impact fees pursuant to Government Code Section 65995).

**3.2.11 Processing Fees.** Project Developer shall pay all Processing Fees for Ministerial Permits and Approvals. Processing Fees shall be limited to Processing Fees in effect on January 1, 2007 and as set forth in Exhibit F hereto.

**3.2.12 Timeframes and Staffing for Processing and Review.** The County agrees that expeditious processing of the Land Use Approvals, any Discretionary Actions, any Ministerial Permits and Approvals, and any other approvals or actions which may be required for the Project are critical to the implementation of the Project. In recognition of the importance of timely processing and review of the Land Use Approvals, any Discretionary Actions, any Ministerial Permits and Approvals, the County agrees to work with Project Developer to establish time frames for processing and reviewing such approvals and to comply with timeframes established. Furthermore, the County shall expedite all requests by Project Developer for any such approvals requested for the Project.

**3.3 CEC Jurisdiction.** Nothing in this agreement is intended to limit the scope of authority granted to the California Energy Commission pursuant to the Warren Alquist Act and its implementing regulations, or to expand the scope of the County's authority with respect to the Project beyond that which is reserved to the County pursuant to the Warren Alquist Act and its implementing regulations.

#### **4. DEFAULT PROVISIONS**

##### **4.1 Default By Project Developer.**

**4.1.1 Default.** In the event Project Developer does not perform its obligations under this Agreement in a timely manner, the County shall have all rights and remedies provided by this Agreement, which shall include compelling the specific performance of the obligations of Project Developer under this Agreement, or modification or termination of this Agreement, provided that the County has first complied with the procedure in Section 4.1.2 hereof.

**4.1.2 Notice of Default.** The County shall first submit to Project Developer a written notice of default stating with specificity those obligations that have not been performed. Upon receipt of the notice of default, Project Developer shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than one hundred and twenty (120) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that Project Developer shall continuously and diligently pursue such remedy at all times until such default(s) is cured.

**4.1.3 Failure to Cure Default Procedures.** If after the cure period has elapsed, the Director of Planning finds and determines that the Project Developer, or its successors, transferees, and/or assignees, as the case may be, remains in default and that the County intends to terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, the Director shall make a report to the Board of Supervisors and then set a public hearing before the Supervisors in accordance with the notice and hearing requirements of Government Code Sections 65867 and 65868.

**4.1.4 Action by Board of Supervisors.** The Board of Supervisors shall act upon the report of the Director of Planning within forty-five (45) days after the Director of Planning has made a report to the Board of Supervisors, or within such additional period as may be agreed upon by the Project Developer and the Board of Supervisors. The failure of the Board of Supervisors to act within forty-five (45) days shall be deemed to be a determination that the Project Developer is not in default of this Agreement.

**4.1.5 Dispute Resolution.** In the case of a dispute as to whether the Project Developer has cured the default, the Parties shall submit the matter to dispute resolution pursuant to Section 5.4 of this Agreement. The County shall commence dispute resolution within thirty (30) days of the Board of Supervisors making a final determination that the Project Developer is in default.

**4.1.6 Termination or Modification of Agreement.** The County may terminate or modify this Agreement, or those transferred or assigned rights and obligations, as the case may be, after a final determination pursuant to Section 5.4 of this Agreement that the Project Developer is in default. There shall be no modifications of this Agreement unless the Board of Supervisors acts pursuant to Government Code Sections 65867.5 and 65868.

## **4.2 Default By The County.**

**4.2.1 Default.** In the event the County does not accept, process, or render a decision on necessary development permits, entitlements, or other land use or building approvals for use, including the Land Use Approvals, County Water Agreement, Discretionary Actions and Ministerial Permits and Approvals, as provided in this Agreement upon compliance with the requirements thereof, or as otherwise agreed to by the Parties, or the County otherwise defaults under the provisions of this Agreement, Project Developer shall have all rights and remedies provided herein or by applicable law, which shall include compelling the specific performance of the County's obligations under this Agreement.

**4.2.2 Notice of Default.** Project Developer shall first submit to the County a written notice of default stating with specificity those obligations that have not been performed. Upon receipt of the notice of default, the County shall promptly commence to cure the identified default(s) at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default(s) not later than one hundred and twenty (120) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default(s), provided that the County shall continuously and diligently pursue such remedy at all times until such default(s) is cured. In the case of a dispute as to whether the County has cured the default, the Parties shall submit the matter to dispute resolution pursuant to Section 5.4 of this Agreement.

**4.2.3 Termination or Modification of Agreement.** The Project Developer may terminate or modify this Agreement after a final determination pursuant to Section 5.4 of this Agreement that the County has failed to cure its default.

**4.3 No Monetary Damages.** It is acknowledged by the Parties that neither the County nor the Project Developer would have entered into this Agreement if it were liable in monetary damages under or with respect to this Agreement or the application thereof. Therefore, the Parties agree that the Parties shall not be liable in monetary damages, and the Parties covenant not to sue for or claim any monetary damages for the breach of any provision of this Agreement.

## **5. GENERAL PROVISIONS.**

**5.1 Effective Date.** This Agreement shall be effective upon the thirty-first day after the Board of Supervisors, after conducting a duly-noticed public hearing, adopts an ordinance approving and authorizing the execution of this Agreement, or as otherwise provided by California law.

**5.2 Term.** The Term of this Agreement shall commence on the Effective Date and shall extend to commercial operation of the Project, unless said Term is otherwise terminated, modified, or extended by circumstances set forth in this Agreement or by mutual consent of the Parties hereto. Following the expiration of this Term, this Agreement shall terminate and be of no further force and effect; provided, however, that this termination shall not affect any right or duty arising from entitlements or approvals, including the Land Use Approvals on the Property, approved concurrently with, or subsequent to, the Effective Date of this Agreement. The Term of this Agreement shall automatically be extended for the period of time of any actual delay resulting from any enactments pursuant to the Reserved Powers or moratoria, or from legal actions or appeals that enjoin performance under this Agreement or act to stay performance under this Agreement (other than bankruptcy or similar procedures), or from litigation relating to the Land Use Approvals.

**5.3 Enforced Delay; Extension of Time of Performance.** In addition to specific provisions of this Agreement, whenever a period of time, including a reasonable period of time, is designated within which either Party hereto is required to do or complete any act, matter, or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days during which such Party is actually prevented from, or is unreasonably interfered with, the doing or completion of such act, matter, or thing because of causes beyond the reasonable control of the Party to be excused, including: war; insurrection; riots; floods; earthquakes; fires; casualties; acts of God; litigation and administrative proceedings against the Project (not including any administrative proceedings contemplated by this Agreement in the normal course of affairs); any approval required by the County (not including any period of time normally expected for the processing of such approvals in the ordinary course of affairs); restrictions imposed or mandated by other governmental entities; enactment of conflicting state or federal laws or regulations; judicial decisions; the exercise of the County's Reserved Powers; or similar bases for excused performance that is not within the reasonable control of the party to be excused (financial inability excepted). This Section shall not be applicable to any proceedings with respect to bankruptcy or receivership initiated by or on behalf of Project Developer or, if not dismissed within ninety (90) days, by any third parties against Project Developer. If written notice of such delay is given to either party within thirty (30) days of the commencement of such delay, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

**5.4 Dispute Resolution.**

**5.4.1 Arbitration.** Any dispute between the parties shall be resolved by arbitration and shall be settled and decided by arbitration conducted by an arbitrator who must be selected by mutual agreement of the Parties.

**5.4.2 Arbitration Procedures.** Upon appointment of the arbitrator, the matter shall be set for arbitration at a time not less than thirty (30) or more than ninety (90) days from the effective date of the appointment of the arbitrator. The arbitration shall be conducted under the procedures set forth in Code of Civil Procedure Section 638, *et seq.*, or under such other procedures as are agreeable to both Parties, except that provisions of the California Code of Civil Procedure pertaining to discovery and the provisions of the California Evidence Code shall be applicable to such proceeding.

**5.4.3 Extension of Term.** The Term of this Agreement as set forth in Section 5.2 shall automatically be extended for the period of time in which the Parties are engaged in dispute resolution to the degree that such extension of the Term is reasonably required because activities that would have been completed prior to the expiration of the Term are delayed beyond the scheduled expiration of the Term as the result of such dispute resolution.

**5.5 Applicable Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California.

**5.6 Amendments.** This Agreement may be amended from time to time by mutual consent in writing of the parties to this Agreement in accordance with Government Code Section 65868.

**5.7 Assignment.** The rights and obligations of the Project Developer under this Agreement may be transferred or assigned in whole or in part without the consent of the County, and upon such assignment the assignor shall be released from the obligations so assigned. The failure of any successor-in-interest to perform the obligations assigned to it may result, at the County's option, in a declaration that this Agreement has been breached with regards to that specific successor-in-interest, and an election to terminate this Agreement as provided for in Section 4.1 hereof, as it relates to that successor-in-interest's holding. This partial termination is severable from the entire Agreement, and shall not affect the remaining entirety of the Agreement.

**5.8 Covenants.** The provisions of this Agreement shall constitute covenants that shall run with the land comprising the Property for the benefit thereof, and the burdens and benefits hereof shall bind and inure to the benefit of all assignees, transferees, and successors to the Parties hereto during the Term of this Agreement.

**5.9 Cooperation And Implementation.**

**5.9.1 Processing.** Upon satisfactory completion by Project Developer of all required preliminary actions and payment of appropriate Processing Fees, including any fee for processing this Agreement, the County shall commence and diligently and expeditiously process all required steps necessary for the implementation of this Agreement and development of the Project in accordance with the terms of this Agreement. Project Developer shall, in a timely manner, provide the County with all documents, plans, fees, and other information necessary for the County to carry out its processing obligations pursuant to this Agreement.

**5.9.2 Other Governmental Permits.** Project Developer shall apply in a timely manner for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. The County shall cooperate with Project Developer in its endeavors to obtain such permits and approvals and shall, at the request of Project Developer, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals or services. To the extent allowed by law, Project Developer shall be a party to any such agreement, or a third party beneficiary thereof, entitled to enforce for its own benefit on behalf of the County, or in its own name, the rights of the County or Project Developer thereunder or the duties and obligations of the parties thereto. Project Developer shall reimburse the County for all costs and expenses incurred in connection with seeking and entering into any such agreement, provided that Project Developer has requested such agreement.

**5.9.3 Cooperation.** In the event of any opposition to the Project by a third party or other governmental entity or official, the County hereby agrees, if requested by the Project Developer, to affirmatively cooperate in supporting the Project. But such cooperation does not include initiating any legal or administrative proceeding, intervening in such, or becoming a party to such proceedings.

**5.9.4 Cooperation In the Event of Legal Challenge.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to affirmatively cooperate in defending that action, but such cooperation shall not include bringing an action in the name of the County or sharing the expense of any such action by the County.

**5.10 Relationship of the Parties.** It is understood and agreed by the Parties that the contractual relationship created between the Parties hereunder is that Project Developer is an independent contractor and not an agent of the County. Further, the County and Project Developer hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing herein or in any document executed in connection herewith shall be construed as making the County and Project Developer joint venturers or partners.

**5.11 Notices.** Any notice or communication required hereunder between the County or Project Developer must be in writing, and shall be given either personally or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, a notice shall be deemed to have been given when delivered to the party to whom it is addressed. Any party hereto may at any time, by giving ten (10) days' written notice to the other party hereto, designate any other address in substitution of the address, or any additional address, to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the County:

COUNTY OF COLUSA  
BOARD OF SUPERVISORS  
547 Market Street, Suite 108  
Colusa, CA 95932

with copies to

Colusa County Department Planning & Building  
ATTN: Steve Hackney, Director  
220-12th Street  
Colusa, CA 95932

If to Project Developer:

E&L WESTCOAST, LLC, c/o CPV, Inc.  
Attention: Andrew Welch  
8403 Colesville, Suite 915  
Silver Spring, MD 20910

with copies to

Latham & Watkins LLP  
Attention: Michael J. Carroll  
650 Town Center Drive, Suite 2000  
Costa Mesa, CA 92626-1925

**5.12 Recordation.** As provided in Government Code Section 65868.5, the Clerk of the County shall record a copy of this Agreement with the Recorder of the County no later than ten (10) days after the County enters into the Agreement. Upon expiration of the Term of this Agreement, the Clerk of the County shall record a written instrument providing notice of the termination of this Agreement. Project Developer shall provide the Clerk of the County with the fees for such recordings prior to or at the time of such recordings.

**5.13 Constructive Notice and Acceptance.** Every person who now or hereafter owns or acquires any right, title, interest in or to any portion of the Property, is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

**5.14 Successors And Assignees.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties, any subsequent owner of all or any portion of the Property, and their respective successors and assignees during the Term of this Agreement.

**5.15 Severability.** If any provisions, conditions, or covenants of this Agreement, or the application thereof to any circumstances of either Party, shall be held invalid or unenforceable, the remainder of this Agreement or the application of such provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

**5.16 Time of the Essence.** Time is of the essence for each provision of this Agreement of which time is an element.

**5.17 Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought and refers expressly to this Section. No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

**5.18 No Third Party Beneficiaries.** The only Parties to this Agreement are the County and Project Developer and their successors-in-interest. There are no third party beneficiaries and this Agreement is not intended and shall not be construed to benefit or be enforceable by any other person whatsoever.

**5.19 Entire Agreement.** This Agreement sets forth and contains the entire understanding and agreement of the Parties, and there are no oral or written representations, understandings, or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein (or any such representations, understandings, or ancillary covenants, undertakings or agreements are integrated in this Agreement) and no testimony or evidence of any such representations, understandings, or covenants shall be admissible in any proceedings of any kind or nature to interpret or determine the provisions or conditions of this Agreement.

**5.20 Legal Advice; Neutral Interpretation; Headings, Table Of Contents, and Index.** Each Party acknowledges that it has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any Party based upon any attribution to such Party as the source of the language in question. The headings, table of contents, and index used in this Agreement are for the convenience of reference only and shall not be used in construing this Agreement.

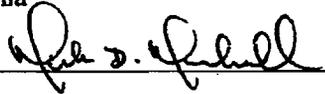
**5.21 Discretion to Encumber.** This Agreement shall not prevent or limit Project Developer in any manner, at its sole discretion, from encumbering the Property or any portion of the Property or any improvement on the Property by any mortgage, deed of trust, or other security device securing financing with respect to the Property or its improvements.

**5.22 Expedited Processing.** The County agrees to cooperate with the Project Developer in the processing of any legal action seeking specific performance, declaratory relief, or injunctive relief, to set court dates at the earliest practicable date(s), and not to cause delay in the prosecution/defense of the action, provided such cooperation shall not require any Party to waive any rights; but such cooperation shall not include bringing an action in the name of the County or sharing the expense of any such action by the County.

**5.23 Counterparts.** This Agreement is executed in duplicate originals, each of which is deemed to be an original. This Agreement, not counting the Cover Page, Table of Contents or Index, consists of eighteen (18) pages and six (6) Exhibits.

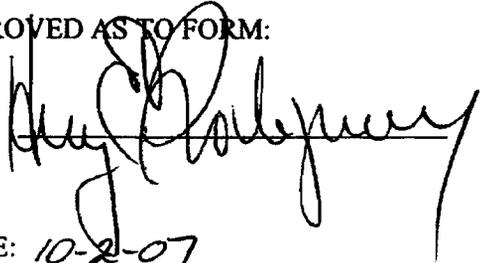
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

COUNTY OF COLUSA, a body corporate and a political subdivision of the State of California

By: 

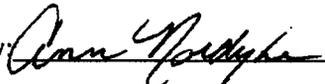
DATE: 10-2-07

APPROVED AS TO FORM:

By: 

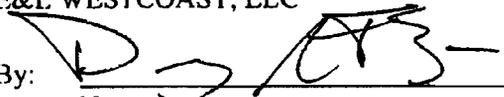
DATE: 10-2-07

ATTEST:  
[County Clerk]

By: 

DATE: 10-2-2007

E&L WESTCOAST, LLC

By:   
Name: Douglas F. Egan  
Title: CEO

APPROVED AS TO FORM:



By: MICHAEL CARROLL  
OF LATAM: WATKINS LLP

**Exhibit A**

**Land Use Approvals**

**General Plan Amendment/Zoning Amendment  
#07-2-1 (ED #07-48)**

**Tentative Parcel Map #07-2-4 (ED #07-49)**

**Use Permit (advisory) #07-2-16 (ED #07-50)**

**Agreement for the Transfer, Conveyance and Delivery of Water  
By and Between the Glenn-Colusa Irrigation District,  
The County of Colusa and E&L Westcoast, LLC**

Exhibit B

Legal Description

A portion of the land described as PARCEL 1 in the quitclaim deed from Martell Blair to Leo M. Holthouse recorded 20 October 2003 as Document No. 2003-0005813, Official Records County of Colusa, located in Section 35, Township 18 North, Range 04 West, M.D.B. & M., Colusa County, California, more particularly described as follows:

BEGINNING at a ¾-inch iron pipe with PLS 7579 cap at the southeast corner of Section 35, thence S. 89°42'51"W. along the south line of said Section 1645.92 feet to a ¾-inch iron pipe with PLS 7579 cap, thence leaving said section line N. 00°05'01"E. parallel with the east line of said Section 2652.90 feet; thence N.89°54'03"E. 1645.89 feet to the east line of said Section; thence S.00°05'01"W. along said line 2647.53 feet to the POINT OF BEGINNING.

Containing 100.156 acres, more or less.

The basis of bearings for this description is the California Coordinate System, Zone II, North American Datum of 1983, Epoch date 1991.35, U.S. Survey feet. Distances are grid distance. Divide grid distance by 0.99992060 to obtain ground distance. Area is ground area.

Attached hereto is a plat labeled "Exhibit B" and by this reference made a part hereof.

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

END OF DESCRIPTION.

Exhibit C

Materials and Services  
Typically Furnished from the Local Area

General

Air Conditioning Service  
Automotive Service and repairs  
Bottle Water and Ice Services  
Catering Services/ Party Meeting  
Facilities  
Freight Services Motor Freight / Package  
Carrier  
Fuel Oil / Gasoline/  
Diesel/Kerosene/Propane  
Hotel and Motel Services  
Janitorial Supplies and Service  
Machine Shop Service  
Medical Clinic Services  
Office Furniture and supplies  
Pest Control Services  
Printing and Reproduction Services  
Real Estate Services  
Security Service  
Septic Service/Portable Toilets  
Signs Traffic and general Information  
Snow Removal  
Telephone Equipment and Service  
Trash Removal and Dumpster Services  
Well water Service  
Porta Johns  
Vehicle rentals

Civil

Concrete / Ready mix/ Batch  
Fencing Contractor  
Fill Material Stone, Sand / Gravel  
Jersey Barriers  
Landscaping Services  
Precast Concrete  
Structure Steel and Bolting Supplies  
Weld Rod  
Welding Gases  
Welding supplies  
Wire Fabric  
Road Paving

Electrical            Misc hardware  
Cable Tray (limited)  
Conduit and fittings (limited)  
Pull Boxes (limited)  
Temporary lighting Fixtures and lamps  
Tools and Supplies  
Wire and Cable (limited)

Mechanical  
Gasket Material  
Pipe and Fitting CS / SS (limited)  
Pipe and Fittings Copper/PVC  
Plumbing and Water Work pipe and fitting  
Soil Piping and Fittings  
Tools and Supplies  
Valves, small bore (limited)  
Grout  
HDPE pipe, small bore  
Shim stock, metal

Miscellaneous  
Equipment and Tool Rentals (limited)  
Lumber (all types)  
Nails and Fasteners  
Protection Tarps (plastic)

## Exhibit D

### PG&E Programs

#### Energy Efficiency

- Energy Watch Partnership Programs to help local governments and communities achieve significant energy savings
- Energy Efficiency Programs for Agricultural customers
- Incentives to reduce demand during peak periods
- Incentives when the efficiency of a new building exceeds the minimum Savings By Design thresholds
- Energy Partner Contractors Program – Colusa Housing Rehabilitation Unit received customer satisfaction awards for weatherization crews

#### Solar Energy

- Solar Energy Incentives to install solar energy in homes, businesses
- Solar Schools Program that introduces solar in the classroom using a 1 kilowatt solar installation, George T. Egling Middle School and Colusa County Alternative may be eligible
- Solar Habitat for Humanity Project grants for education, planning and installation of solar electric systems on Habitat homes

#### Incentives for Installing New Equipment

- Incentives for installing self-generation systems
- Agricultural Internal Combustion Engine Conversion Incentive (AG-ICE) for permanently retiring stationary diesel engines used for on-farm irrigation purposes

#### Renewable Energy

- PG&E is actively seeking new renewable energy projects that harvest energy from biomass, biogas, wind, solar and other emerging renewable resources

#### Clean Air Transportation

- Help customers qualify for grants to support the purchase of natural gas vehicles, finance engine retrofits, and add or upgrade CNG fueling stations
- Encourage customers to join the Plug-In Partnership – a national, grassroots initiative in support of Plug-In Hybrids
- Support demonstration projects to enhance gas-to-hydrogen reforming technology and incorporate hydrogen-fueling capability into existing natural gas stations to support fuel cell vehicles

### **Environmental Stewardship**

- Supporting environmental stewardship projects, including donating more than 2 miles of clean used gas pipeline to Ducks Unlimited to help restore habitat at several wetland refuges to benefit migratory birds; Colusa County is home to 2 national wildlife refuges – Delevan and Sacramento

### **Climate Protection**

- For customers who want to make their energy use carbon neutral, we offer a ClimateSmart program; customers pay a small monthly premium and PG&E invests the funds in projects that remove greenhouse gases from the air

### **Economic Development**

- PG&E provides economic development grants, including a \$4,000 grant to the Colusa County Economic Workforce Development Initiative

### **Low Income Customer Programs**

- Currently 73% of eligible households in Colusa are enrolled in CARE Program which provides a discount on bills for qualified low income customers; 1,000 more households are eligible but have not yet enrolled in the program; Colusa-Glenn-Trinity Community Action Partnership might be able to assist in enrolling customers for assistance

### **Charitable Contributions**

- PG&E provides contributions to qualified 501C-3 non-profit organizations, including environmental organizations, education programs, school garden projects, emergency preparedness efforts, restoration of historic landmarks, county fair sponsorships, Chamber of Commerce events, etc.



STEPHEN M. HACKNEY, AICP  
DIRECTOR

# COUNTY OF COLUSA

DEPARTMENT OF  
PLANNING AND BUILDING ADMINISTRATION  
220 12th Street  
Colusa, California 95932  
TELEPHONE (530) 458-0480 FAX (530) 458-2035

September 20, 2007

Andy Welch, Vice President  
Competitive Power Ventures  
8403 Colesville Road, Suite 915  
Silver Spring, MD 20910

**Re: Colusa Generating Station**

Dear Mr. Welch:

Please find enclosed endorsed copies of the filed Notices of Exemption for your records. I have also included two of the four \$50.00 checks for the filing fees. Only two Notices of Exemption were required not four as we had originally thought.

If you have any questions please call me at the number above.

Sincerely,

A handwritten signature in cursive script that reads "Tana Loudon".

Tana Loudon  
Department Secretary

Enclosures



STATE OF CALIFORNIA - THE RESOURCES AGENCY  
DEPARTMENT OF FISH AND GAME  
ENVIRONMENTAL FILING FEE CASH RECEIPT

342418

Lead Agency: COLUSA COUNTY PLANNING Date: 9/13/07  
 County/State Agency of Filing: COLUSA COUNTY Document No.: 07-83  
 Project Title: E & L WESTCOAST, LLC  
 Project Applicant Name: E & L WESTCOAST LLC  
 Project Applicant Address: HOLTHOUSE RANCH PROPERTY COLUSA  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone Number: ( ) \_\_\_\_\_

Project Applicant (check appropriate box):

- Local Public Agency  School District  Other Special District  State Agency  Private Entity

Check Applicable Fees:

- |   |           |          |
|---|-----------|----------|
| <input type="checkbox"/> Environmental Impact Report  | \$2500.00 | \$ _____ |
| <input type="checkbox"/> Negative Declaration   | \$1800.00 | \$ _____ |
| <input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board Only) | \$850.00  | \$ _____ |
| <input type="checkbox"/> Projects Subject to Certified Regulatory Programs                          | \$850.00  | \$ _____ |
| <input type="checkbox"/> County Administrative Fee  | \$50.00   | \$ _____ |
| <input checked="" type="checkbox"/> Project that is exempt from fees                                |           |          |
| <input type="checkbox"/> Notice of Exemption  |           |          |
| <input type="checkbox"/> DFG No Effect Determination (Form Attached)                                |           |          |

TOTAL RECEIVED \$ 50.00

Signature and title of person receiving payment:

WHITE-PROJECT APPLICANT

YELLOW-DFG/ASB

PINK-LEAD AGENCY

GOLDENROD-COUNTY CLERK

DFG 753.5a (Rev. 1/07)

Clerk Recorder's Office  
County of  
Colusa  
**KATHLEEN MORAN**  
Clerk-Recorder

1 NOTICE OF EXEMPTION	50.00
-----	
TOTAL	50.00
CHECK 1134	50.00
-----	
CHANGE	0.00
09/13/2007 3:02PM	2007091300028
MGR	COUNTER-L

Thank You  
Have a Nice Day!

Requested By:  
E&L West Coast LLC

**ENDORSED**

**Notice of Exemption**

**FILED**

To:  Office of Planning and Research

For U.S. Mail:

P.O. Box 3044

Sacramento, CA 95812-3044

Street Address:

1400 Tenth St.

Sacramento, CA 958-14

From: Public Agency: Colusa County Planning Dept.

Address: 220 12<sup>th</sup> Street

Colusa, CA 95932

SEP 13 2007

■ County Clerk

County of Colusa County

546 Jay Street, Suite 200

Colusa, CA 95932

**KATHLEEN MORAN  
COLUSA COUNTY CLERK-RECORDER**

Project Title: **E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.  
Colusa Generating Station;**

Project Action: **TPM #07-2-4 (ED #07-49)**

*Rec. # 342418  
Doc # 07-83*

Project Location-Specific: The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. This site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the community of Williams and 4-miles west of Interstate 5 in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road (Section 35, Township 18N, Range 4W, MD B and M) in the Maxwell area, identified as APNs #011-040-024, -023 and -022.

Project Location City:

Project Location-County: **COLUSA**

Project Description: A Tentative Parcel Map to create a 100-acre parcel from a 451-acre parcel identified as APN #011-040-024, for a 660 megawatt (MW) natural gas-fired combined cycle power plant, on property presently zoned Exclusive Agriculture (E-A).

The proposed Colusa Generating Station will consist of a natural gas-fired combined cycle power plant, a 230 Kv switchyard and associated linear facilities. The project will have a nominal electrical output of 660 MW. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch-diameter, 1,500-foot-long pipeline that will be owned and operated by PG&E. The power plant and switchyard will occupy approximately 31 acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot-wide extension of the existing PG&E road easement. A 20-foot-wide, paved perimeter road would provide access to the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Two Heat Recovery Steam Generator stacks will be 19-feet in diameter and 175 feet tall.

Name of Public Agency Approving Project: **Colusa County**

Name of Person or Agency Carrying Out Project: **E & L Westcoast, LLC, a subsidiary of  
Competitive Power Ventures, Inc.**

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(B)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption State type and section number:
- Statutory Exemption. State code number: **California Environmental Quality Act (CEQA)  
Guidelines Section 15271(a)(1) and Section 15271(c)**

Reasons why project is exempt: **Early Activities Related to Thermal Power Plants.**

Lead Agency

Contact Person: Stephen Hackney

Area Code/Telephone/Extension: (530) 458-0480

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Stephen Hackney  
Signature (Public Agency)

9-10-07  
Date

Chairperson, Planning Commission  
Title

Signed by Lead Agency     Signed by Applicant

Date received for filing at OPR: \_\_\_\_\_

*Governor's Office of Planning and Research*



STATE OF CALIFORNIA - THE RESOURCES AGENCY  
DEPARTMENT OF FISH AND GAME  
ENVIRONMENTAL FILING FEE CASH RECEIPT

342420

Lead Agency: Colusa Co Plan. + Bldg Date: 9-19-07

County/State Agency of Filing: Colusa Co Clerk-Recorder Document No.: 07-85

Project Title: E+L Westcoast, LLC

Project Applicant Name: E+L Westcoast LLC

Project Applicant Address: 8403 Colvestine Rd

City: Silver Springs State: MD Zip Code: 20910 Phone Number: ( )

Project Applicant (check appropriate box):  
 Local Public Agency     School District     Other Special District     State Agency     Private Entity

- Check Applicable Fees:
- Environmental Impact Report \$2500.00 \$
  - Negative Declaration \$1800.00 \$
  - Application Fee Water Diversion (State Water Resources Control Board Only) \$850.00 \$
  - Projects Subject to Certified Regulatory Programs \$650.00 \$
  - County Administrative Fee \$50.00 \$
  - Project that is exempt from fees
  - Notice of Exemption
  - DFG No Effect Determination (Form Attached)

TOTAL RECEIVED \$ 50.00

Signature and title of person receiving payment: Colusa Co  
 WHITE-PROJECT APPLICANT      YELLOW-DFGASB      PINK-LEAD AGENCY      GOLDENROD-COUNTY CLERK      DFG-753.5a (Rev. 10/7)

Clerk Recorder's Office  
County of  
Colusa  
**KATHLEEN MORAN**  
Clerk-Recorder

1 NOTICE OF EXEMPTION	50.00
<b>TOTAL</b>	<b>50.00</b>
CHECK 1135	50.00
CHANGE	0.00
09/19/2007 2:11PM CS	2007091900021 COUNTER

Thank You  
Have a Nice Day!

Requested By:  
E&L West Coast LLC

**Notice of Exemption**

**ENDORSED**

**FILED**

To:  Office of Planning and Research

For U.S. Mail:  
P.O. Box 3044  
Sacramento, CA 95812-3044

Street Address:  
1400 Tenth St.  
Sacramento, CA 958-14

From: Public Agency: Colusa County Planning Dept.

Address: 220 12<sup>th</sup> Street  
Colusa, CA 95932

SEP 19 2007

County Clerk  
County of Colusa County  
546 Jay Street, Suite 200  
Colusa, CA 95932

KATHLEEN MORAN  
COLUSA COUNTY CLERK-RECORDER

Rec # 342420  
Doc No 07-85

Project Title: **E & L Westcoast, LLC, a subsidiary of Competitive Power Ventures, Inc.  
Colusa Generating Station;**

Project Action: **GPA/ZA #07-2-1 (ED #07-48)**

Project Location-Specific: **The proposed project site is on 31-acres of a proposed 100-acre parcel located on the Holthouse Ranch property. This site is located approximately 6-miles northwest of the community of Maxwell, 14-miles northwest of the community of Williams and 4-miles west of Interstate 5 in Colusa County, and approximately 1-mile west of the intersection of Delevan Road and Dirks Road (Section 35, Township 18N, Range 4W, MD B and M) in the Maxwell area, identified as APNs #011-040-024, -023 and -022.**

Project Location City:

Project Location-County: **COLUSA**

Project Description: **A General Plan Amendment from land use designation Agriculture General to Industrial and Zoning Amendment from Exclusive Agriculture to Industrial of 50-acres of the central portion of a proposed 100-acre parcel for a 660 megawatt (MW) natural gas-fired combined cycle power plant.**

**The proposed Colusa Generating Station will consist of a natural gas-fired combined cycle power plant, a 230 Kv switchyard and associated linear facilities. The project will have a nominal electrical output of 660 MW. The plant will supply power to the PG&E transmission grid. PG&E's existing 230 Kv lines, approximately 1,800-feet east of the project site, will be looped into the plant switchyard. The project will be fueled with natural gas that will be delivered to the power plant site via a new 8-inch-diameter, 1,500-foot-long pipeline that will be owned and operated by PG&E. The power plant and switchyard will occupy approximately 31 acres within the 100-acre project site. Access to the power plant site will be provided by a new 30-foot-wide extension of the existing PG&E road easement. A 20-foot-wide, paved perimeter road would provide access to the power generation facility. The power generation facility includes the parking area, control/administration/warehouse building, air cooled condenser, power block area, gas metering and regulating station, storage tanks and water treatment facilities. Two Heat Recovery Steam Generator stacks will be 19-feet in diameter and 175 feet tall.**

**STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:	)	Docket No. 06-AFC-9
	)	
Application for Certification,	)	<b>ELECTRONIC PROOF OF SERVICE</b>
for the COLUSA GENERATING STATION	)	<b>LIST</b>
by E&L Westcoast, LLC	)	
	)	<b>(revised August 22, 2007)</b>
	)	
	)	

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Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

**CALIFORNIA ENERGY COMMISSION**

Attn: DOCKET NO. 06-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, California 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

Transmission via electronic mail addressed to the following:

APPLICANT

**Andy Welch**  
Vice President  
Competitive Power Ventures  
8403 Colesville Road, Suite 915  
Silver Spring, MD 20910  
[awelch@cpv.com](mailto:awelch@cpv.com)

APPLICANT'S CONSULTANTS

**Dale Shileikis**  
Vice President  
URS Corporation  
221 Main Street, Suite 600  
San Francisco, CA 94105-1917  
[dale\\_shileikis@urscorp.com](mailto:dale_shileikis@urscorp.com)

COLUSA GENERATING STATION PROJECT  
CEC Docket No. 06-AFC-9

**Mark Strehlow**  
Senior Project Manager  
URS Corporation  
1333 Broadway, Suite 800  
Oakland, CA 94612  
[Mark\\_Strehlow@URSCorp.com](mailto:Mark_Strehlow@URSCorp.com)

INTERESTED AGENCIES

**Larry Tobias**  
Ca. Independent System Operator  
151 Blue Ravine Road  
Folsom, CA 95630  
[LTobias@caiso.com](mailto:LTobias@caiso.com)

**Electricity Oversight Board**  
770 L Street, Suite 1250  
Sacramento, CA 95814  
[esaltmarsh@eob.ca.gov](mailto:esaltmarsh@eob.ca.gov)

**Stephen M. Hackney**  
Director  
Colusa County Department of Planning and Building  
220 12th Street  
Colusa, CA 95932  
[shackney@countyofcolusa.org](mailto:shackney@countyofcolusa.org)

**Harry Krug, APCO**  
Colusa County APCD  
100 Sunrise Blvd. #F  
Colusa, CA 95932-3246  
[hak@countyofcolusa.org](mailto:hak@countyofcolusa.org)

**Steve Tuggle**  
Environmental Manager  
Sierra Nevada Region  
Western Area Power Administration  
114 Parkshore Drive  
Folsom, CA 95630  
[tuggle@wapa.gov](mailto:tuggle@wapa.gov)

**Mark Wieringa**  
Western Area Power Administration  
12155 W. Alameda Parkway  
P.O. Box 281213  
Lakewood, CO 80228  
[wieringa@wapa.gov](mailto:wieringa@wapa.gov)

COLUSA GENERATING STATION PROJECT  
CEC Docket No. 06-AFC-9

INTERVENORS

**Emerald Farms**

**c/o Allen L. Etchepare**

Post Office Box 658

4599 McDermott Road

Maxwell, California 95955

[jme@efarmsmail.com](mailto:jme@efarmsmail.com)

[ale@efarmsmail.com](mailto:ale@efarmsmail.com)

**Pacific Gas and Electric Company**

**c/o Scott A. Galati, David L. Wiseman**

GalatiBlek LLP

555 Capitol Mall, Suite 600

Sacramento, CA 95814

[sgalati@gb-llp.com](mailto:sgalati@gb-llp.com)

[dwiseman@gb-llp.com](mailto:dwiseman@gb-llp.com)

**Pacific Gas and Electricity Company**

**c/o Andrea Grenier**

Grenier & Associates, Inc.

1420 East Roseville Parkway,

Suite 140-377

Roseville, CA 95661

[andrea@agrenier.com](mailto:andrea@agrenier.com)

ENERGY COMMISSION

**John L. Geesman**

Presiding Member

[jgeesman@energy.state.ca.us](mailto:jgeesman@energy.state.ca.us)

**James D. Boyd**

Associate Member

[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

**Susan Brown**

Adviser to Commissioner Boyd

[sbrown@energy.state.ca.us](mailto:sbrown@energy.state.ca.us)

**Raoul Renaud**

Hearing Officer

[rrenaud@energy.state.ca.us](mailto:rrenaud@energy.state.ca.us)

**Jack Caswell**

Project Manager

[jcaswell@energy.state.ca.us](mailto:jcaswell@energy.state.ca.us)