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| Filer: | Mary Dyas |
| Organization: | California Energy Commission |
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Memorandum

To: **Commissioner Janea A. Scott** – Presiding Member
Commissioner Karen Douglas – Associate Member
Raoul Renaud – Hearing Officer

Date : November 4, 2015
Telephone: 916-651-8891
File: 02-AFC-1C

From: **California Energy Commission-** Mary Dyas
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Compliance Project Manager

Subject: **STATUS REPORT #1 - SONORAN ENERGY PROJECT (02-AFC-1C) AMENDMENT TO CHANGE THE PROJECT DESIGN**

On October 12, 2015, staff filed Data Requests Set No. 1 (1-58) in the technical areas of Air Quality (1-22), Biological Resources (23-25), Hazardous Materials Management (26-29), Land Use (30), Socioeconomics (31-33), Soil and Water Resources (34-45), Transmission System Engineering (46-56), and Visual Resources (57-58). Staff requested that responses be submitted by November 12, 2015.

On October 29, 2015, the Project Owner filed Objections to Certain Data Responses in CEC Staff's Data Requests, Set One (#1-58). (TN#206451) The Project Owner objected to staff's background discussion for its data requests AQ-21&22 and S&W34-45 on grounds that:

- 1) The PTA does not propose to change the quantity or source of water used for the project.
- 2) There have been no changes to water supply LORS since the amendment in 2012.
- 3) Staff's requests are overreaching, and are contrary to Title 20, California Code of Regulations, section 1769(a)(1), and CEQA Guidelines section 15162 limits additional environmental review to "substantial changes" that will result in greater environmental impacts, and provides for reliance on the prior environmental review for areas that will not have substantial changes.

Staff believes these objections are unfounded. In staff's Issues Identification and Scoping Report (IID) (TN#206163), docketed on September 21, 2015, staff agrees there has been no change in the water supply proposed for the project. However staff notes that in the original permit adopted in 2005, the project water use was estimated to be up to 3300 acre feet for a wet cooled 520 MW base load facility operating at 95% capacity factor. At that time, the Energy Commission chose not to limit project water use as recommended by staff. In 2012, when the project design was changed, staff was critical of project water use again based on what was known at the time and added new conditions limiting project water use and reducing the licensed amount to that needed for nominal operation of the amended design. The project design is being changed yet again, and now that staff has recent additional experience with the feasibility of the use of dry cooling designs, the submittal of another PTA has renewed

staff's ability to apply what has been learned in recent cases regarding feasible technologies that limit water use.

Further, staff still maintains the proposed groundwater use is not consistent with the Energy Commission's water policy regarding potable water use for cooling power plants. In addition to the new water supply LORS discussed in the IID, staff points out additional new significant LORS that apply to the project water use are the Governor's recent Executive Orders No. B-28-14 and No. B-29-15, which specifically direct the Energy Commission to implement various water conservation and efficiency measures in its programs. Staff is mindful of these Executive Orders and is implementing them in accordance with their intent.

With respect to applicant's assertion that staff is overreaching regarding the scope of analysis, staff has clearly provided a sound basis for significant changes that have occurred since the project licensing in 2005, and amended license in 2012. As discussed in the IID, new evidence from the Bureau of Land Management in March 2015 shows that the project groundwater basin is over allocated by 2,111 AFY. This is a significant cumulative impact the project would exacerbate. In addition, staff has new evidence that the water conservation mitigation the project owner proposes is likely unavailable, may not be sufficient to ensure offset of impacts, and/or would be difficult to measure and determine whether any real savings were achieved.

Staff is satisfied with the Project Owner's October 29, 2015 response to Data Request 34 which states that estimating water use of the Irish project is speculative. (TN#206451) Staff understands the Project Owner is still working on developing that project and design has not been sufficiently completed to know what the estimated water use will be.

Staff acknowledges that notwithstanding the above objections, the Project Owner has indicated they will respond to the best of their ability. Staff encourages the Project Owner to respond to the data request in a full and impartial manner so staff can timely complete the analysis. Staff looks forward to receiving a complete set of responses from the Project Owner.

Staff is currently working on its Preliminary Staff Assessment.