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January 13, 2017

Mr. Shawn Pittard
Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Subject: Comments on the Proposed Conditions of Certification in the Final Staff Assessment for the Puente Power Project (15-AFC-01/VCAPCD Application No. 00013-370)

Dear Mr. Pittard:

On December 8, 2016, the California Energy Commission ("CEC") Staff issued its Final Staff Assessment (FSA), Parts 1 and 2, ("FSA") for the Puente Power Project ("P3" or "Project") (TN #214712 and #214713). The Applicant appreciates the timely release of the FSA. The Applicant hereby provides the following comments and requested changes to some of the proposed Conditions of Certification contained in the FSA. Requested changes are shown in strikethrough/double underline format. The specific conditions addressed below are AQ-SC12, AQ-29, AQ-48, AQ-50, BIO-7, BIO-9, and COM-13.

CONDITION AQ-SC12, PSD

Condition AQ-SC12 requires that the Project owner either apply to the U.S. Environmental Protection Agency (U.S. EPA) for a Prevention of Significant Deterioration (PSD) Permit for the Project or provide certification from the U.S. EPA that no such permit is required. We have significant concerns with this proposed condition.

As demonstrated in the Application for Certification (AFC) and the Applicant's Data Request Responses, and as confirmed in the emission calculations included in the Ventura County Air Pollution Control District's (VCAPCD) Final Determination of Compliance (FDOC) and the FSA, the net emission changes for P3, based on the emissions from the new equipment and the shutdown of existing MGS Unit 2, are below federal PSD significance thresholds for all criteria pollutants. Therefore, the Project does not trigger PSD review. To reduce the net emission increases for P3 to levels even further below PSD trigger thresholds, the Applicant requested that the VCAPCD include a condition in the FDOC requiring the permanent shutdown of both

MGS Units 1 and 2 following the commissioning period for the new P3 CTG. This added requirement is reflected in FDOC Condition 2 and FSA Condition AQ-2.

Because the Project does not trigger PSD review, there is no reason to prepare/submit a PSD permit application for P3. Regarding the requirement to obtain a PSD non-applicability determination, there is no regulatory process for seeking a determination of non-applicability from PSD permit requirements. At present, the authority for issuing PSD permits in Ventura County rests with U.S. EPA. U.S. EPA's PSD regulations are contained in 40 CFR 52.21. There are no provisions in these regulations that require, or provide an opportunity for, a project proponent to seek a PSD non-applicability determination. Since there is no regulatory process for seeking a PSD non-applicability determination, there are no requirements that U.S. EPA respond to such a request at all, and no deadlines for a U.S. EPA response to such a request.

For the above reasons, the Applicant requests that AQ-SC12 be deleted.

CONDITION AQ-29, CTG NORMAL OPERATING EMISSION LIMITS

Condition AQ-29 includes a number of CTG normal operating limits and reflects the requirements of FDOC Condition 29. However, it appears that the CEC Staff may have overlooked two of the updates included in FDOC Condition 29. For consistency purposes, the Applicant requests that this condition be changed as shown below.

> **AQ-29** During <u>normal operation</u> of the CTG, emission concentrations and emission rates from the CTG, except during startup, shutdown, and/or unplanned load change, shall not exceed any of the following limits:
>
> ROC = 6.60 pounds per hour and 2.0 ppmvd @ 15% O_2,
> NOx (as NO_2) = 23.73 pounds per hour and 2.5 ppmvd @ 15% O_2,
> PM10/PM2.5 = 10.10 pounds per hour,
> SOx (as SO_2) = 5.50 pounds per hour,
> CO = 23.10 pounds per hour and 4 ppmvd @ 15% O_2,
> Ammonia (NH_3) = 17.53 pounds per hour and 5 ppmvd @ 15% O_2.
>
> For the purpose of this condition, all PM_{10} emissions are assumed to be $PM_{2.5}$ emissions.
>
> ROC and NOx (as NO_2) ppmvd and pounds per hour limits are expressed as a one-hour ~~rolling~~ average limit. All other ppmvd and pounds per hour limits are three-hour rolling averages. If the CTG is in either startup or shutdown mode during any portion of a clock hour, the CTG shall not be subject to these limits during that clock hour. Startup limits and shutdown limits are listed in the above conditions.
>
> Compliance with the ROC, NOx, PM10/PM2.5, CO, and NH_3 emission limits shall be verified by initial and annual source testing as required below. Compliance with the SOx emission limit shall be verified by complying with

the natural gas sulfur content limit of this permit. Compliance with the NH_3 limits shall also be verified by monitoring the ammonia injection rate as required below. In addition, compliance with the NOx and CO emission limits shall be verified by continuous emissions monitors (CEMS) as required by this permit. If the CEMS is not operating properly, as required below, the CEMS missing data procedures required by Condition AQ-55 shall be implemented; ~~the project owner shall provide documentation, including a certified source test, correlating the control system operating parameters to the associated measured NOx and CO emissions~~. (Rules 26.2, 29, and 74.23)

CONDITION AQ-48, CTG ANNUAL OPERATING LIMITS

Condition AQ-48 reflects the requirements of FDOC Condition 48. This condition includes limits on the proposed new Combustion Turbine Generator (CTG) hours of operation per year and the number of startups/shutdowns per year. While the limit on the number of startups/shutdowns per year matches the worst-case assumptions in the Authority to Construct (ATC)/Determination of Compliance (DOC) application package and AFC, it does not account for the startups/shutdowns that will occur during the CTG commissioning period. Both the detailed emission calculations in the ATC/DOC application package and AFC show that the 200 startups/200 shutdowns occur following the end of the CTG commissioning period. The ATC/DOC permit application package and AFC include a separate set of operating assumptions/emission estimates for the CTG commissioning period. Based on these operating assumptions/emission estimates, the FDOC and FSA include separate conditions limiting the maximum hourly emissions and overall emissions and limiting the CTG to 366 operating hours during the commissioning period (FDOC Condition 30, FSA CoC AQ-30). Therefore, the Applicant requests a change to AQ-48 to clarify that the limit of 200 startups/shutdowns per year begins following the end of the commissioning period.

The Applicant is also requesting a change to AQ-48 to clarify how aborted startups are counted for purposes of the 200 startup per year limit. The ATC/DOC application package, AFC, Applicant's Data Request Responses, FDOC, and FSA analyzed the emissions associated with an aborted CTG startup (startup/shutdown/restart). We are requesting that AQ-48 be revised to count an aborted startup (startup/shutdown/restart) as a single startup event provided that the total duration of the event does not exceed the 60-minute startup exception period allowed in AQ-22 and the hourly emissions during the event do not exceed the startup emission limits in AQ-27.

Finally, the Applicant is proposing to clarify the definition of a startup for the purposes of this condition.

The Applicant requests that AQ-48 be changed as shown below.

> **AQ-48** The number of annual operating hours (including startup and shutdown) for the CTG shall not exceed 2,150 hours per year. The number of startup periods occurring shall not exceed 200 per year (following the end of the commissioning period). The number of shutdown periods occurring shall not exceed 200 per year (following the end of the commissioning period). For the purposes of this condition, the beginning of the startup occurs at turbine initial firing and the end of the startup occurs at the start of the first 15-minute average period when both the 2.5 ppm @ 15% O_2 NOx and the 4 ppm @ 15% O_2 CO normal operation BACT levels in Condition AQ-29 are achieved. If during the startup, the process is aborted and the turbine is restarted, then the startup and restart will count as one startup, provided the total time for the startup/restart does not exceed the 60-minute exception allowed in Condition AQ-22 and the hourly emissions during the event do not exceed the startup emission limits in Condition AQ-27.
>
> The CTG shall be equipped with an operating, non-resettable, elapsed hour meter. The project owner shall maintain a log that differentiates normal operation from startup operation and shutdown operation. These hours of operation records shall be compiled into a monthly total. The monthly operating hour records shall be summed for the previous 12 months and reported to the District and CPM on an annual basis. (Rules 26 and 74.23)

CONDITION AQ-50, CTG CONTINUOUS EMISSION MONITORING

Condition AQ-50 includes a number of CTG continuous emissions monitoring system (CEMS) requirements and reflects the requirements of FDOC Condition 50. However, it appears that the CEC Staff may have overlooked two of the updates included in FDOC Condition 50. For consistency purposes, the Applicant requests that this condition be changed as shown below.

> **AQ-50** Continuous monitors shall be installed on the SCR system prior to ~~their~~ its initial operation to monitor or calculate, and record the ammonia solution injection rate in pounds per hour and the SCR catalyst temperature in degrees Fahrenheit for each unit operating minute. The monitors shall be installed, calibrated and maintained in accordance with a District and CPM approved protocol, which may be part of the CEMS protocol. This protocol, which shall include the calculation methodology, shall be submitted to the District and CPM for written approval at least 90 days prior to installation of the SCR system. Following the initial operation of the SCR system, the monitors shall be in full operation at all times when the turbine is in operation. (Rules 26 and 103)

CONDITION BIO-7, PROTECTION OF ESHA

In the interest of greater clarity, we request that the specific ESHA of concern be identified in Condition BIO-7 as follows:

> **BIO-7:** The project owner shall implement the following measures during site mobilization, construction, operation, and closure to manage their project site and related facilities in a manner to avoid or minimize impacts to special status biological resources, including offsite environmentally sensitive habitat areas (**McGrath Lake ESHA and coastal dune ESHA that supports western snowy plover and California least tern breeding** ~~as defined by the City of Oxnard local coastal plan~~):
>
> . . .
>
> 13. Construction activities will maintain a 100-feet buffer from ~~all ESHA~~ **the McGrath Lake ESHA and coastal dune ESHA that supports western snowy plover and California least tern breeding**.

CONDITION BIO-9, HABITAT MITIGATION

The Applicant does not believe the mitigation in Condition BIO-9 is appropriate in light of the poor quality of the habitat impacted by the Project. As staff has acknowledged: "[b]ecause the wetlands on-site are degraded and contain plants suited to upland growth, there is little to no differentiation between upland habitat surrounding the wetland, and the wetland, itself. There is no tidal influence to cause increased salinity, and water inputs are only from rainfall. Therefore, the approximately 2.03-acre wetland has diminished value, form, and function." (FSA, p. 4.2-33). We request the following changes to BIO-9 to make the required mitigation more proportionate to the impact being addressed:

> **BIO-9:** The project owner shall fully mitigate for permanent impacts to on-site wetlands at a **2:1**~~4:1~~ ratio**, which is intended to be accomplished by** ~~T~~**t**he project owner ~~shall~~ **providing**~~e~~ funds **up to $500,000** to ~~acquire mitigation land at an existing, or soon to be established, salt marsh, palustrine or estuary habitat restoration project, or~~help fund an established**,** **or soon to be established,** salt marsh, palustrine or estuary habitat restoration project **or mitigation bank as** close to the site of impact as possible to fully mitigate impacts to Coastal Commission wetlands.
>
> Mitigation shall occur using an established wetland restoration program or mitigation bank, with preference given to programs within the same watershed as the project (Santa Clara-Calleguas), or any other wetland restoration program approved by the CPM. The project owner shall **obtain the following information from the restoration program manager which will then be** provide**d to** the CPM**:** ~~a Wetland Compensation Plan (Plan). The Plan shall include:~~

a) Available information from the ~~land owner or~~ wetland ~~program~~ restoration program manager pertaining to existing physical, biological and hydrological conditions at the mitigation sites(s), including vegetation present, hydrologic regime of the site(s), known or expected fauna at the site(s), including any known or expected listed sensitive species, known or suspected contaminants that may be present at the site(s), and an analysis of existing ecological functions and values at the sites(s). The **restoration program manager** ~~review~~ shall also identify any known site constraints that may limit successful creation or restoration efforts.

~~b) A description of legal interests at the mitigation sites(s), and any landowner approval that the project owner may need to use the proposed site(s) for wetland creation or restoration.~~

c) Proposed goals **and** objectives ~~and performance criteria~~ for the proposed mitigation site(s) that identify specific creation or restoration measures to be implemented, including proposed habitat types to be created or restored, grading and planting plans, the timing of the mitigation measures, and monitoring that will be implemented to establish baseline conditions and to determine whether the sites are **successfully established** ~~meeting performance criteria~~. ~~Monitoring shall be for at least 5 years and final monitoring for success shall take place after at least 3 years with no remediation or maintenance other than weeding.~~ The plan shall also identify contingency measures that the ~~project owner~~ **restoration program manager** will implement should any of the mitigation sites not **become successfully established** ~~meet performance criteria~~.

~~These goals, objectives, and performance criteria shall include:~~

~~I. Creation or restoration of habitat types that will support wetland- dependent species.~~

~~II. Created or restored areas shall be provided a buffer of a size adequate to ensure protection of wetland functions and values, and at least 100 feet wide, as measured from the nearest upland edge of the transition area. The plan may propose a lesser buffer width if the mitigation area is sited within existing wetland areas that are protected by a buffer meeting these criteria.~~

~~III. Measures to be implemented if soil or groundwater contamination is found at the site(s).~~

~~IV. A planting program that includes initial and ongoing removal of invasive or non-native species and identifies the vegetation species to be planted, local sources of those plants or seeds, measures needed to protect any existing native wetland vegetation species, timing of planting, plans for irrigation if needed to establish plants, and locations of plants. The plan shall also identify soil sources and amendments to be used.~~

~~V. Formal sampling design to assess performance criteria and shall identify the means by which success will be assessed. Where statistical tests are used, the plan shall include a requirement for a statistical power analysis to demonstrate that there will be sufficient replication to enable a robust test with beta equal to alpha.~~

~~VI. Topographic drawings for the final mitigation site(s) and construction drawings, schedules, and a description of equipment to be used in the project.~~

~~VII. "As-built" plans and annual monitoring reports for no less than five years or until the sites meet performance criteria.~~

~~VIII. Identify legal mechanism(s) proposed to ensure permanent protection of the mitigation site(s) – e.g. , conservation easements, deed restrictions, or other methods.~~

Verification: At least 90 days prior to the start of project construction, the project owner shall submit to the CPM for approval the wetland restoration program or mitigation bank in which the project owner wishes to participate. At least 60 days prior to the start of project construction, the project owner shall provide funding to support an existing, or soon to be established, salt marsh**, palustrine** or estuary habitat restoration project **or mitigation bank**. At least 90 days prior to the start of project construction, the project owner shall submit to the CPM a Restoration Management Plan or similar plan (used ~~by the land manager~~, or to be used by, the ~~land manager or~~ restoration program manager **or mitigation bank**) that discusses the details of the wetland restoration program **or mitigation bank**.

No less than 30 days prior to the start of project construction, the project owner shall provide a written verification to the CPM that the funding has been paid in full to the ~~land manager~~ **restoration program manager or mitigation bank** approved by the CPM. The project owner shall provide evidence that payment from the funding can be used only to assist in coastal wetland restoration to mitigate the project's effects for the loss of Coastal Commission wetlands. Thereafter, within 30 days after each anniversary date of the commencement of project operation, the project owner shall **request** ~~obtain~~ an annual report from the ~~land manager or restoration~~ program manager administering the restoration program **or mitigation bank**. The annual reports will document how payments from the endowment required hereunder were used and applied to provide wetland habitat restoration/enhancement at approved locations ~~and shall describe how implementation of the mitigation conformed to the above goals, objectives, and performance criteria~~. The project owner shall provide copies of such reports to the CPM within 30 days of receipt. This verification shall be provided annually for **a period of 10 years following implementation**

~~the operating life~~ of the restoration program**.** ~~or the project, whichever is sooner.~~

~~If after five years, the restoration has not achieved the success criteria, the project owner shall submit within 90 days (of the fifth year anniversary) a revised or supplemental plan to compensate for those portions of the original plan which did not meet the approved success criteria.~~

CONDITION COM-13, INCIDENT REPORTING

We recommend the following clarifying changes to Condition COM-13:

COM-13 Incident-Reporting Requirements. The project owner shall notify the CPM within 1 one hour after it is safe and feasible of any incident at the facility that results in any of the following:

1. **Reduction in the facility's ability to respond to dispatch (excluding forced outages cause by equipment maintenance, communications equipment, outside interconnect equipment, or other typically encountered shutdown events)**~~An event of any kind that causes a "Forced Outage" as defined in the CAISO tariff~~;

2. The activation of onsite emergency fire suppression equipment to combat a fire;

3. Any chemical, gas or hazardous materials release that could result in potential health impacts to the surrounding population; or create an off-site odor issue; and /or

4. Notification to, or response by, any off-site emergency response federal, state or local agency regarding a fire, hazardous materials release, on-site **serious** injury, or ~~any physical or~~ cyber security incident.

Notification shall describe the circumstances, status, and expected duration of the incident. If warranted, as soon as it is safe and feasible, the project owner shall implement the safe shutdown of any non-critical equipment and removal of any hazardous materials and waste that pose a threat to public health and safety and to environmental quality (also, see specific conditions of certification for the technical areas of **(Hazardous Materials Management and Waste Management).**

Within 6 six business days of the incident, the project owner shall submit to the CPM a detailed incident report, which includes, as appropriate, the following information:

1. A brief description of the incident, including its date, time, and location;

2. A description of the cause of the incident, or likely causes if it is still under investigation;

3. The location of any off-site impacts;

4. Description of any resultant impacts;

5. A description of emergency response actions associated with the incident;

6. Identification of responding agencies;

7. Identification of emergency notifications made to federal, state, and/or local agencies;

8. Identification of any hazardous materials released and an estimate of the quantity released;

9. A description of any injuries, fatalities, or property damage that occurred as a result of the incident;

10. Fines or violations assessed or being processed by other agencies;

11. Name, phone number, and e-mail address of the appropriate facility contact person having knowledge of the event; and

12. Corrective actions to prevent a recurrence of the incident.

The project owner shall maintain all incident report records for the life of the project, including closure. After the submittal of the initial report for any incident, the project owner shall submit to the CPM copies of incident reports within 48 hours of a request. **The project owner may submit notifications and reports under confidential cover to the CPM.**

We greatly appreciate the effort that the CEC Staff has expended in evaluating the Project and preparing the FSA.

If you have any questions or comments, please do not hesitate to contact me at (760) 710-2156.

Sincerely,

George L. Piantka, PE
Sr. Director, Regulatory Environmental Services
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