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Memorandum

Date: May 1, 2017
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To: Karen Douglas, Commissioner and Presiding Member
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Susan Cochran, Hearing Officer

From: **California Energy Commission** **Mike Monasmith**
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Subject: MISSION ROCK ENERGY CENTER (15-AFC-02) STATUS REPORT #9

Staff submits the following status report #9 for the Mission Rock Energy Center (Mission Rock).

Preliminary Staff Assessment (PSA) Status:

Staff is fully engaged in the analysis component of the proceeding. Staff has filed a number of records of conversation to clarify points related to Cultural Resources, Project Description, Traffic and Transportation, and Transmission System Engineering. Staff has predicated its work on the assumption that the Preliminary Determination of Compliance (PDOC) from the Ventura County Air Pollution Control District (VCAPCD) will arrive by early May 2017. However, while VCAPCD staff does not have a definitive PDOC release date, they indicated in an April 27, 2017 email to Energy Commission air quality unit staff that the PDOC is not expected to be published before July 1, 2017.

This information notwithstanding, staff continues to push ahead with its analyses and Preliminary Staff Assessment (PSA) section preparation with the intent to complete all of the PSA sections that do not rely on information from the PDOC. Any extra time afforded staff by the PDOC filing will allow for late-arriving information (e.g., revised Air Quality and Public Health sections were filed by the applicant on April 28, 2017) to be included to result in a more thorough and complete PSA.

As was reported in early April, in addition to the PDOC, there are additional informational items requested of the applicant that remain incomplete. These outstanding items are related to Air Quality, as well as the areas of Biological Resources, and Soil and Water Resources.

Air Quality

1) Cumulative Source List – The applicant provided air quality staff the Excel version of the cumulative list of nearby air quality emissions sources on April 14, 2017. Staff will evaluate the applicant's proposal and get back to them by May 8, 2017 on which sources to include in the cumulative impact assessment. Once an agreement is reached

on which sources to include in the final list, the applicant will be required to provide staff with the cumulative air quality impact assessment.

2) Offsets – The VCAPCD has indicated to staff verbally that it is willing to allow the applicant to provide offsets prior to the start of construction and staff has no objections. However, there may be language in the PSA explaining that the applicant has not yet adequately mitigated the project, but that adequate mitigation would be fully identified and described in the Final Staff Assessment (FSA). The VCAPCD is only referring to the timing of when the credits are surrendered.

3) CEQA Mitigation – The applicant has not identified the specific emissions reductions they would use to mitigate the proposed project’s air quality impacts for California Environmental Quality Act (CEQA) purposes, nor have they demonstrated at this time that they control sufficient emissions reductions. An emission reduction program should be finalized or emission reduction credits should be surrendered for mitigation of all non-attainment criteria pollutants and non-attainment criteria pollutant precursor impacts under CEQA. The applicant has indicated they will get back to staff on this aspect of their air quality analysis but has not provided a specific date. The VCAPCD has expressed a willingness to work with staff and the applicant to come up with an acceptable CEQA mitigation plan.

4) On April 28, 2017, staff received from the project applicant revised Air Quality and Public Health sections of the AFC. The revised sections were updated based on review and analysis by the VCAPCD, and include revisions to construction and operational air quality and public health impacts. The applicant has not yet provided accompanying modeling files, but has indicated these will be hand delivered to allow staff to continue its review.

Staff recommends that the Committee request the VCAPCD to provide monthly status reports on their progress in evaluating this application, including due dates for the PDOC and the FDOC.

Biological Resources:

As was indicated in the April status report, staff met with U.S. Fish and Wildlife Service (FWS) and the California Department of Fish and Wildlife (CDFW) on March 28, 2017 to get a better determination of the least Bell’s vireo habitat areas. In response to Data Requests, Set 5, the applicant declined to provide protocol surveys for the least Bell’s vireo to map the nesting territory stating “additional surveys would be duplicative, burdensome, unnecessary, and would only serve to delay the issuance of a Preliminary Staff Assessment without adding any significant new information.” In the absence of this data, however, staff must assume presence of least Bell’s vireo, a state and federally listed endangered species, in all suitable habitats and recommend mitigation for potential impacts, which may include “take,” as appropriate.

During staff’s meeting with FWS and CDFW staff, FWS raised the concern about southern willow flycatchers colliding with transmission lines during nocturnal migration. This concern first came to staff’s attention late in the Palmdale Energy Project proceeding and mitigation for potential impacts was proposed by staff for that project.

Staff is working diligently to resolve these issues and anticipates completing the Biological Resources PSA section by late-May 2017.

Soil & Water Resources:

Staff continues to consult with the Los Angeles Regional Water Quality Control Board (LARWQCB) about the project's proposed use of recycled water from the Limoneira Company. The current LARWQCB permit for Limoneira only allows end use of this recycled water to irrigate Limonera alfalfa fields, and the permit must be amended to allow for the project to use recycled water from the Limoneira facility as proposed. The applicant objected to staff's Data Requests Nos. 80 and 81 regarding Limoneira's ability to provide recycled water to an industrial user such as Mission Rock, claiming that the issue is not within the Energy Commission's jurisdiction and that the information is not relevant or reasonably necessary for a Commission decision. In addition, the applicant's response to Data Request No. 153 indicated that no alternative source of recycled water was under consideration. Because the project would not be able to operate if and when recycled water from Limoneira is not available, staff is conducting an independent analysis to assess what would be required for the project to comply with LARWQCB requirements for use of recycled water and the reliability of the recycled water supply from Limoneira. Staff is working diligently to resolve these issues and anticipates completing the Soil and Water PSA section by mid-May 2017.