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CALIFORNIA ENERGY COMMISSION

PMPD COMMITTEE CONFERENCE

In the Matter of:) Docket No. 08-AFC-09C
)
)
) PMPD CONFERENCE RE:
 Palmdale Energy Project) Palmdale Energy
) Project
)

CALIFORNIA ENERGY COMMISSION (CEC)
 PALMDALE ENERGY PROJECT
 PMPD COMMITTEE CONFERENCE

CALIFORNIA ENERGY COMMISSION
 THE WARREN-ALQUIST STATE ENERGY BUILDING
 FIRST FLOOR, ART ROSENFELD HEARING ROOM
 1516 NINTH STREET
 SACRAMENTO, CALIFORNIA

MONDAY, JULY 24, 2017

10:04 A.M.

Reported By: Peter Petty

APPEARANCES

Committee:

Karen Douglas, Presiding Member

Jennifer Nelson, Advisor

LeQuyen Nguyen Advisor

Janea Scott, Associate Member

Matthew Coldwell, Advisor

Rhett DeMesa, Advisor

Kristy Chew, Technical Advisor to Committee

Hearing Officer:

Kenneth Celli

Staff:

Lisa DeCarlo, Staff Counsel

Eric Veerkamp, Project Manager

Public Advisor:

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Petitioner:

Scott Galati, Galati & Blek, Attorney for Palmdale Energy
Project, LLC

Tomas Cameron, Palmdale, LLC

Public Agencies:

Vickie Rausch, Antelope Valley AQMD

I N D E X

| | |
|-----------------------------|----|
| Welcome & Introduction | 4 |
| Adjournment | 18 |
| Transcriber's Certification | 19 |

P R O C E E D I N G S

July 24, 2017

10:06 a.m.

MS. DOUGLAS: Welcome to the Committee Conference on the PMPD for the Palmdale Energy Project.

The Committee members assigned to this case are myself, Karen Douglas, presiding member. Commissioner Janea Scott, the associate member of the Committee.

And to my right is my advisor, LeQuyen Nguyen. To Commissioner Scott's left, her advisors Rhetta DeMesa and Matt Coldwell.

To Matt Coldwell's left is Kristy Chew, she's the technical advisor on siting matters for this Committee. And to my immediate left is Ken Celli, our hearing officer.

So at this point I'll ask the parties to introduce themselves and their representatives starting with the applicant.

MR. GALATI: Scott Galati, representing Palmdale Energy, LLC. And we also have Tom Cameron, the project's sponsor from Palmdale Energy, LLC on the telephone.

MS. DOUGLAS: Thank you. Staff.

MS. DECARLO: Lisa DeCarlo, Energy Commission staff counsel. And with me is Eric Veerkamp, Energy Commission project manager.

MS. DOUGLAS: Excellent. Thank you very much.

Now are there any elected officials or

1 representatives from federal government, state of
2 California, Native American tribes, or local agencies in
3 the room or on the phone today?

4 Go ahead and speak up if you are here and would
5 like to be acknowledged into the record.

6 All right. Looks like nobody yet. Let's see,
7 Alana Matthews I think is here from -- oh, no. Eunice is
8 here from the Public Advisor's Office. Thanks for being
9 here. All I could see was the very tip-top of her head
10 from where I'm sitting.

11 So with that, let me hand over the conduct of
12 this hearing to Ken Celli.

13 HEARING OFFICER CELLI: Thank you, Commissioner
14 Douglas.

15 Good morning, everybody. The Presiding Member's
16 Proposed Decision, which I'm going to refer to as the
17 "PMPD" throughout this proceeding, was published on July
18 3rd, 2017. Also on July 3rd, 2017, the Notice of
19 Availability went out to the mailing list and it noticed
20 today's conference and it also noticed the August 9th Energy
21 Commission Business Meeting.

22 The Notice of Availability of the PMPD asked the
23 parties to file written comments on July 20th, 2017. The
24 Petitioner filed its comments on July 13th, 2017, and the
25 Energy Commission Staff filed their comments on PMPD on

1 February 20th, 2017. As noticed in the -- or as stated in
2 the notice, the deadline for filing comments for agencies
3 and the public is 5:00 on August 2nd, 2017.

4 After we receive all the comments on the PMPD, we
5 will draft an errata that lists those errors which are an
6 unfortunate but seemingly inevitable part of every PMPD
7 even though we try our best to catch and correct errors.

8 So we are interested in changes, conditions, or
9 errors of fact. For example, let's say there was a
10 statement in the PMPD that a stack height was 1,600 feet
11 but the true height, according to the evidence, was 160
12 feet, we would want that error brought to our attention so
13 we can correct it. While we are interested in all
14 comments, only the Staff and Applicant's comments have been
15 received so far.

16 We will begin by discussing some issues raised in
17 Staff and Applicant's comments and after that, we will take
18 public comment. So immediately following these
19 discussions, we'll go to the phones and we will take any
20 public comment for any -- from anyone who's here in the
21 room who's a member of the public. I don't really know if
22 we have anyone today.

23 So with that, I'm going to, just for the record,
24 to ask you Mr. Galati representing the Petitioner if you've
25 had a chance to read Staff's comments.

1 MR. GALATI: Yes, I have. And Hearing Officer
2 Celli, we agree with all of Staff's comments except for the
3 area of soil and water resources, we have a little
4 disagreement. Just to highlight it, remember we didn't
5 agree with Staff that we didn't have a binding right to
6 water for the 3.6 acre-feet of potable water, same amount
7 that was granted for the project and approved last time.
8 So Staff and us, we disagreed on whether we had that right.

9 We believe that the Commission would have to
10 adjudicate water rights in this form to be able to decide
11 that issue. So in order not to do that, we proposed a
12 condition and Staff agreed to take the issue off the table.
13 However, the PMPD reads by quoting Staff as if it were fact
14 that we don't have water rights. So we proposed in our
15 comments just very simply to include the terms "according
16 to Staff" and then the facts would follow, or "Staff
17 asserts" and then the facts would follow. And then
18 ultimately the condition takes care of it whether or not we
19 do have a water right or we don't have a water right.

20 And so we just didn't want a decision in there
21 about a finding of fact that we really didn't adjudicate,
22 so we asked for that. Staff's comments were to not accept
23 our changes showing that "Staff asserts" or that it was
24 "according to Staff." That is the only dispute that we
25 have with Staff on the comments.

1 HEARING OFFICE CELLI: And just to be clear so
2 I'm with everybody, were talking about, for the record,
3 page 5.2-5 of Soil and Water resources in the PMPD. And
4 this is the first full paragraph. And so the language - it
5 seemed to me was - the only difference was - that
6 essentially the dispute is to remove where it says, "Staff
7 asserts" that," "according to Staff" and a second
8 "according to Staff." All the other information is the
9 same.

10 MR. GALATI: Correct. All the information is the
11 same; it's just without the caveat according to Staff it
12 looks like the Commission has made those findings. So we
13 just wanted the Commission --

14 HEARING OFFICER CELLI: I see what you're saying.

15 MR. GALATI: -- to reference that that comes from
16 the Final Staff Assessment, we didn't agree, we filed
17 testimony on that subject, but instead of adjudicating it
18 here, we proposed condition, Staff agreed to it.

19 So we don't believe the Commission -- they have
20 two conflicting stories and I don't think the Commission
21 needs to define -- to decide it.

22 HEARING OFFICER CELLI: Okay. Let me hear from
23 Ms. DeCarlo representing Staff, please.

24 MS. DECARLO: Our position is that those
25 statements don't need to be qualified, Staff -- that was

1 Staff's testimony, there's ample evidence in the record for
2 the Commission to actually reach that conclusion. But it
3 certainly is within the Committee's purview whether or not
4 they want to qualify those statements.

5 HEARING OFFICER CELLI: Yeah, I just want to --
6 just my recollection from our evidentiary hearing was that
7 the Applicant made the case that "we still think we have
8 the original rights, nevertheless, we will provide under,
9 (I can't remember what condition it was), an agreement" and
10 Staff was okay with that, the agreement in lieu of a will-
11 serve letter.

12 And so I don't think it makes that much
13 difference really to say "Staff asserts" because it is
14 Staff's assertion. And now that you explained the way you
15 did, Mr. Galati, I understand because I was thinking,
16 "what's the big deal here?" But I do see that it does
17 preserve the positions of the parties without really
18 changing the outcome. So we will take a look at that, but
19 I appreciate that clarification.

20 What I'd like to do next is just basically, I'm
21 going to quickly walk through the changes that I've
22 received so that you can pipe up if you need to on any
23 point.

24 Naturally -- oh, one of the things that we will
25 be doing that's a major change is we're going to put in an

1 Appendix E. And the reason we're doing that is Staff had
2 requested the protocol the -- what's it called? This had
3 to do with air quality.

4 MR. GALATI: For road paving.

5 HEARING OFFICER CELLI: The road paving, that's
6 right. And we were not inclined to have an appendix to an
7 appendix and so therefore rather than have an appendix to
8 Appendix A, we just added Appendix E. So we're going -- so
9 we changed all of the language requested where it said, you
10 know, see appendix to this, to see Appendix E. And we just
11 thought that was an easier way to deal with that.

12 Thank you, Mr. Veerkamp, for providing the
13 citation to exhibit to Figure 2-6, I think that was the
14 one, I can't remember, but there was a missing footnote.
15 We do have that now.

16 And the Introduction, of course, we always have
17 to change the dates because in the end, we put in brackets
18 the word "date" because things haven't happened yet. For
19 instance, today's PMPD conference. So we'll be updating
20 that.

21 And I do appreciate Staff not really getting into
22 the weeds. I saw that there were a couple of sections
23 where there were double periods when there was a footnote,
24 and that arose when Word converts to a PDF. We worked that
25 out, so I'm glad I don't have to waste everybody's time

1 with that kind of thing.

2 So no objection to project description Figure 4
3 coming in from Staff. That was I think at the request of
4 the Applicant that there was another figure that further
5 clarifies the location.

6 MS. DECARLO: Yeah, Staff does not have any
7 concern with that.

8 HEARING OFFICER CELLI: Okay. Let's see, that
9 was c clerical. Then Air Quality. The additional
10 background levels, there was some discussion about that was
11 on Exhibit 500, page 4.1-31. That was that additional
12 paragraph that Staff wanted to insert at page 4.2-10
13 regarding construction impacts or just before construction
14 impacts and mitigation.

15 Let's see, Soil and Water, the Committee will
16 work that out. Land use, Traffic and Transportation.
17 Staff inserted some language. So there -- at page 6.2-5
18 for Traffic and Transportation, there was discussion about
19 the thermal plume vertical velocity of 4.3 meters per
20 second as requested, I think, by the Applicant, and the
21 only change there was the insertion of the third proposed
22 paragraph of the words, "The average vertical velocities of
23 and significance level of 5.3 M/S at all heights above 1500
24 feet." That was another insertion. And lastly, "And PEP's
25 plumes." Was there any problem with that, Mr. Galati?

1 MR. GALATI: No, we think those are good
2 clarifications.

3 MS. DECARLO: And actually if I may interject
4 really quickly, we do -- unfortunately, the formatting
5 didn't transfer over in our published document. There's
6 one bolded phrase that actually should be represented and
7 strike out its existing language that we're proposing be
8 removed.

9 HEARING OFFICER CELLI: Which was?

10 MS. DECARLO: And that's at average vertical
11 velocities of less than 5.3 meters per second. It's bolded
12 now but that should be --

13 HEARING OFFICER CELLI: In which paragraph is
14 that?

15 MS. DECARLO: It's in that same paragraph that
16 you read from.

17 HEARING OFFICER CELLI: Oh, "At average vertical
18 velocities OF less than 5.3 M/S"?

19 MS. DECARLO: Yes. That should be in strike out.

20 HEARING OFFICER CELLI: How much of that?

21 MS. DECARLO: That entire phrase.

22 HEARING OFFICER CELLI: At average, starting at
23 "At average"?

24 MS. DECARLO: Yes.

25 HEARING OFFICER CELLI: And including,

1 "Velocities of less than 5.3 M/S and"?

2 MS. DECARLO: The "and" stays.

3 HEARING OFFICER CELLI: The "and" stays. Okay.
4 Very clear.

5 And then -- good. So moving on to conditions of
6 certification. We're going to put in that the two extra
7 equipment and system quantity one that fuel gas compressor
8 foundations and connections and fuel gas compressor
9 building foundations and then remove all of the bold so
10 it's all just regular font there.

11 Let's see. We talked about AQSC-9, in terms of
12 Appendix E. Cul-6, there was an addition by Staff of "Or
13 the aqueduct or any of its ancillary facilities or the
14 aqueduct facilities or character defining features as
15 defined in Cul-6 above."

16 Any problem with that from Petitioner?

17 MR. GALATI: No, we understand that. Thanks.

18 HEARING OFFICER CELLI: Good. And then, oh, this
19 is something I wanted you to know. Staff, you requested an
20 insertion of a diagram of R2 in noise. Remember, there's a
21 diagram, it shows where R2 was in relation to the project.

22 What we're going to do instead would be to
23 provide a link in the condition so you can just link right
24 to that and just leave it in FSA. So the link goes to the
25 FSA to that page, you see the diagram. And it also cites

1 to it. So rather -- because we just don't put evidence
2 really in conditions, we usually just don't put diagrams in
3 there. So I just thought - actually; it was Paul Kramer's
4 idea. He thought it was a better way to deal with it, so
5 that's how we're going to proceed with that.

6 And then finally, Appendix E is just verbatim in
7 full going to be the Paving Emissions Credit Protocol.
8 That was Exhibit 36 in the record. I think 36 or 56?
9 Exhibit 36.

10 And other than that, we did not receive any
11 further comment from either of the parties. So anything
12 further from Staff on this?

13 MS. DECARLO: Nothing from us.

14 HEARING OFFICER CELLI: Okay, Mr. Galati?

15 MR. GALATI: No. Thank you. And I'd like to
16 thank the Committee for getting the PMPD done before the
17 end of the year.

18 HEARING OFFICER CELLI: Okay. Good.

19 Then with that, then we will move on to public
20 comment. And I'm going to ask Eunice, is there anyone in
21 the -- here who is a member of the public who'd like to
22 make a comment?

23 Okay. Thank you. So for the record, she said
24 "no one has come forward at this time."

25 So let's go to the telephone. Is everybody

1 unmuted? I guess so, because I can hear the bounce of my
2 feedback.

3 So if there's anybody who's a participant, that
4 is to say someone representing an agency, a state agency,
5 or air quality management district who would like to make a
6 comment at this time, please speak up.

7 I'm speaking to the people on the telephone now
8 because we don't have any comments from anyone here in the
9 room. So we're looking for comments from anybody who
10 wishes to make a comment or make their presence known on
11 the telephone. And the way you do that is by just
12 aggressively getting in there and speaking up. So let's
13 hear from you. Okay.

14 MS. RAUSCH: This is Vickie Rausch, no comment.

15 HEARING OFFICER CELLI: Vickie Rausch. Please,
16 we can hear you very faintly, please speak directly into
17 your phone.

18 MS. RAUSCH: Hi, this is Vickie Rausch, Antelope
19 Valley AQMD. I have no comment.

20 HEARING OFFICER CELLI: Thank you very much. We
21 heard you very loud and clear on that.

22 Okay. Anyone else would like to make a comment
23 from any agencies? Or Indian tribes?

24 Okay. Then hearing none, let's just go to the
25 general public if there's anybody out there. A neighbor or

1 a person who's concerned would like to make a comment about
2 the Palmdale Energy Project, please speak up now and make
3 your comment.

4 Hearing none, then I guess we will close public
5 comment at the time.

6 I just got passed a note that I wanted to address
7 with the parties in this regards. Soil and Water
8 resources, regarding page 5.2-5 where it says, "The PEP
9 would be required to pay \$36,000 for the proposed 3.6 AFY
10 of potable water."

11 And the suggestion is to say, "\$36,000 or the
12 amount required by the AVEK" in case it goes up or down
13 rather than having it etched in stone. I'd like to hear
14 from the parties on that.

15 MR. GALATI: This gets to one of our disputes.
16 We believe we've already paid for and have the right to use
17 the 3.6 acre-feet of water. So as long as whatever you put
18 in is according to Staff, that's great. Our disagreement
19 is that we have a will serve letter that we signed, and
20 while the will serve by its terms says it expires, we paid
21 the fee which we believe turned that into a contract. We
22 also believe that that was then adjudicated and taken into
23 account in the base in the adjudication. That's where
24 ultimate disagreement is with Staff.

25 So the way the condition is written is we have to

1 bring to Staff a valid water supply agreement. We know
2 Staff does not believe that is a water supply agreement
3 valid, so we'd have to bring additional proof under the
4 conditions showing that the District has acknowledged that.
5 That' a dispute between us and the District.

6 And so that's why we just wanted the decision to
7 just acknowledge those were facts but according to Staff.
8 So we don't dispute that if you wanted to put it that way.
9 If ultimately if we do not prevail with the District or we
10 do not prevail in a court, we would have to pay the fee,
11 whatever it is.

12 HEARING OFFICER CELLI: Right. Anything from
13 Staff on that additional language or the amount then
14 required by AVEK?

15 MS. DECARLO: I just don't know if this is
16 reflective of something that's required in a condition of
17 certification, and so modifying it would -- would maybe not
18 coincide with what the condition requires. If you could
19 give me a couple minutes, I could look into that. But I do
20 not have an objection to the concept of if it's solely
21 within the realm of the District's determination, then
22 obviously Staff doesn't have a strict position on whether
23 it should be required here.

24 HEARING OFFICER CELLI: Thank you very much,
25 ladies and gentlemen. We're going to, we'll let the

1 Committee deal with whether there's going to be an
2 additional -- any additional language on that or not.

3 So with that, since we've heard no further --
4 there's no further comments, any new commenters on the
5 telephone that would like to make a comment? Anyone?
6 Now's your chance. Going once, going twice, we're about to
7 adjourn.

8 Okay. Then, thank you very much for being here.
9 And at this point, I'm going to hand the matter, the
10 hearing back to Commissioner Douglas to adjourn.

11 MS. DOUGLAS: All right. Well, thank you. And
12 thanks to the parties.

13 And with that, were adjourned.

14 HEARING OFFICER CELLI: Thank you.

15 (Whereupon, at 10:28 p.m., the workshop
16 was adjourned)

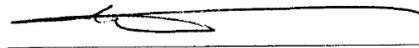
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And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of August, 2017.



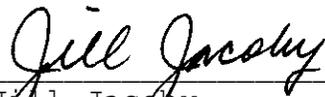
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Jill Jacoby
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