



Lirida S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Arnold Schwarzenegger
Governor

December 19, 2008

Mr. Rod Jones
Project Manager
Siting, Transmission and Environmental Protection Division
California Energy Commission
1516 Ninth Street – MS-15
Sacramento, California 95814 -5512

DOCKET	
08-AFC-11	
DATE	DEC 19 2008
RECD.	DEC 23 2008

REVIEW OF THE CALIFORNIA ENERGY COMMISSION (CEC) APPLICATION FOR CERTIFICATION (AFC) OF THE CPV VACA STATION PROJECT, VACAVILLE, SOLANO COUNTY, CALIFORNIA (DOCKET # 08-AFC-11)

Dear Mr. Jones:

Thank you for providing the Department of Toxic Substances Control (DTSC) the opportunity to review the Application For Certification (AFC) for the proposed CPV Vaca Station (CPVVS) Project, dated November 18, 2008.

The AFC states that the proposed project will be owned and operated by the City of Vacaville. The proposed project will consist of a nominal, natural gas-fired, combined-cycle 660-megawatt (MW) power generation facility to be located within a rural area in the City of Vacaville, Solano County, California. The 25 acre project site is a portion of a 143.5 acre parcel identified by Assessor's Parcel Number (APN) 0142-200-040. The project site is surrounded by agricultural land to the east, west and south, and the City of Vacaville's Easterly Wastewater Treatment Plant (Easterly WWTP) to the immediate northwest. If approved, the City of Vacaville plans to initiate construction of the proposed facility in the spring of 2011, conduct pre-operational testing of the power plant in the fall of 2012, and commence full-scale commercial operation by the spring of 2013.

DTSC, in keeping with the intent of Executive Order D-26-01 and D-28-01 (Executive Orders) to expedite the review of proposed thermal power plants for construction and operation on an emergency basis, has conducted a "fatal-flaw" analysis of specific sections of the AFC for the above-referenced project. The following comments represent the separate evaluations of DTSC's two main programs, the Hazardous Waste Management Program (HWMP) and the Brownfields and Environmental Restoration Program (BERP).

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2. The historical application of biosolids/wastewater treatment sludge generated at the adjacent Easterly WWTP to the project site creates the potential for soil and groundwater contamination.

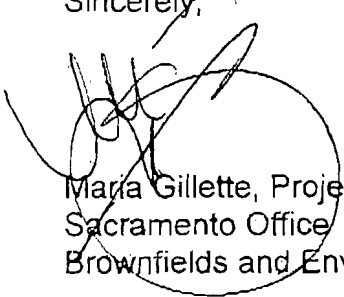
The Phase I ESA reported that the City of Vacaville intends future use of the site property to be limited to industrial purposes and for this reason, believes that any potential risk to human health is likely to be minimal. However, the Phase I ESA recommended that a soil sampling investigation be conducted prior to implementation of any construction activities. Specifically, the Phase I ESA recommended that soil samples be assessed for persistent agricultural chemicals such as organochlorine pesticides, metals and any other analytes that may be identified by a review of the characterization data associated with the biosolid sludge that was applied to the site property by the Easterly WWTP.

DTSC concurs with the recommendations as stated in the Phase II ESA and requests the project proponent contact DTSC to ensure the appropriate management of the soil sampling and analysis requirements.

Therefore, based upon DTSC's review of the referenced AFC documentation and the Phase I Environmental Site Assessment conducted for the proposed CPVVS Energy Project, DTSC concurs with the proposed project action. However, as with any real property, if previously unidentified contamination is discovered at the site, additional assessment, investigation, and/or cleanup may be required.

Thank you for providing DTSC the opportunity to comment on this document. Should you have any questions regarding DTSC's requirements, please contact me at (916) 255-3953.

Sincerely,



Maria Gillette, Project Manager
Sacramento Office
Brownfields and Environmental Restoration Program

cc: See next page.

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HWMP's Land Disposal Branch (LDB) offers the following comments

The AFC addresses the management of hazardous waste and specifies the types of waste expected to be generated during the construction and operational phases of the proposed facility. The AFC states that the potential generation of any hazardous waste is subject to California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and Hazardous Waste Control regulations (California Code of Regulations, Title 22, Division 4.5). Furthermore, the AFC states that the proposed project will comply with all applicable laws, ordinances, regulations and standards (LORS), including California Code of Regulations, Title 22.

Based upon our review of the referenced document, DTSC's LDB has no concerns regarding the future management of hazardous waste at the proposed CPVVS project. However, it is requested that the following "condition of certification" be included as part of the CEC's approval of the AFC:

- If it is determined that hazardous wastes are, or will be (a) stored in tanks or containers for more than ninety days, (b) treated on-site, or (c) disposed of on-site, then a permit from DTSC may be required. The facility shall contact DTSC to initiate pre-application discussions and determine the permitting process applicable to the facility.

BERP's Northern California-Central Cleanup Operations Branch offers the following comments

SMBRP's review of the CPVVS Project focused specifically upon the Phase I Environmental Site Assessment (Phase I ESA) which addressed the historical and current land use activities which may have resulted in hazardous waste contamination at the proposed project area. The Phase I ESA, conducted in conformance with the scope and limitations of ASTM Practice E 1527-05 for the subject property, documented that the project site had been used for agricultural purposes, specifically corn and other row crop production from approximately 1937 until the late 1980's. Historical documentation indicated that the City of Vacaville began operation of the adjacent Easterly WWTP in 1955. The Phase I ESA also reported that biosolids (i.e., wastewater treatment sludge) generated by the Easterly WWTP were applied to the project site property in 1990, 1992, and 1993.

The Phase I ESA made the following conclusions:

1. The historical, long term agricultural use of the site property, specifically through the persistent application of chemical fertilizers and pesticides, creates the potential for soil and groundwater contamination.