Dennis Jang
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Dear Mr. Jang,

Thank you for the opportunity to comment on the Preliminary Determination of Compliance (PDOC) for the Los Esteros Critical Energy Facility application number 8859. We appreciate your efforts to improve air quality in the BAAQMD through your permitting efforts.

Comment #1 Best Available Control Technology

On page 1of the PDOC it states: "input of each gas turbine will increase from 472.6 MM BTU/hr (HHV) to 500 MM BTU/hr (HHV). In accordance with BAAQMD Regulation 2-2-301, the gas turbines will meet current Best Available Control Technology (BACT) standards for NOx, CO, POC, SO2, and PM10 emissions." The project as proposed does not meet the current BACT for NOx. The current BACT for NOx is 2ppm as listed in the BAAQMD Best Available control technology Guideline. As explained in the District's guidelines the US EPA Lowest Achievable Emission Rate (LAER) Determination letter dated 3-24-2000 established this limit. Recent facilities permitted in the BAAQMD at 2ppm for NOx include The East Altamont Energy Center, the Tesla Power Plant, and the Pico Power Plant. In addition this project utilizes the LM 6000 turbine, which has demonstrated in practice a 2ppm NOx limit at the Valero Cogeneration Project. The PDOC also states on page 14 "This limit meets the current BACT 2 (achieved in practice) determination of 2.5 ppmvd specified in District BACT Guideline 89.1.6." Again this project as proposed does not meet the current BACT 1 as the Tesla Power Plant, the East Altamont Energy Center and the Pico Power Plant have all been permitted at 2ppm. Additionally as contained in the comments of the SJVUAPCD on the East Altamont Energy Center the ANP Blackstone Project in Massachusetts has achieved in practice a 2ppm NOx limit for several years now. Their permit to operate can be sent to the district if necessary. BACT level 2 for the sprint

LM-6000 is also 2ppm for NOx achieved at the Valero Cogeneration Project as noted above.

Comment #2 Compliance with State Law

Page 1 states "The PDOC describes how the proposed modified facility will comply with applicable federal, state and BAAQMD regulations, including the Best Available Control Technology and emission offset requirements of the District New Source Review Regulation." As the district is aware this project was approved under the expedited review provisions of Section 25523 which provides:

> 25523(B) That the thermal powerplant will be modified, replaced, or removed within a period of three years with a combined-cycle thermal powerplant that uses best available control technology and obtains necessary offsets, as determined at the time the combined-cycle thermal powerplant is constructed, and that complies with all other applicable laws, ordinances, and standards.

Currently we are participating in an effort at the California Energy Commission to re-certify this project as a single cycle facility, Docket 03-AFC-2. While there is some debate whether this can occur the state law has not been changed and the Energy Commission has not issued a ruling on whether it will allow this project to be certified as single cycle. We note that the district has removed the requirement to convert this project to combined cycle from the current permit in a letter dated June 22, 2004 citing that the Energy Commission does not object to this action. CARE requests that the letter or information, which corroborates that the Energy Commission does not object to removal of this permit condition, be forwarded to us immediately and this therefore is a California Public Records Act request. State law as it currently exists does not allow conversion of this project to combined cycle without the adoption of Best Available Control Technology, which we have identified above from the districts BACT Guidelines. Even if the project is allowed to operate as single cycle we believe the intent of the legislature was to require BACT within three years of the project license. Nothing that we have seen to date changes this determination. This permit as currently proposed

violates Public Resources Code Section 25523(B). The permit should be re-circulated for comment after the energy Commission has rendered a decision on these issues.

Comment # 3

The PDOC states on page 3 "Despite the increase in maximum heat input rating, the maximum annual combined NOx emissions from the gas turbines will not exceed the existing hourly, daily, or annual NOx emission limitations. Therefore, the gas turbines will not trigger BACT for NOx. The potential to emit for NOx for the new proposed duct burners will be limited to less than 10 pounds per day to prevent the triggering of the BACT requirement for NOx."

Once again state law, Public Resources Code Section 25523 requires BACT for this project as noted above in comment #2. We would also note that the project is currently exceeding its NOx hourly emissions and we encourage the District to examine the submission made by this applicant to the Energy Commission under data request number 15 page 8 and Attachment bio-1 page 17 (http://www.energy.ca.gov/sitingcases/losesteros2/documents/applicants_files/2004-05-11_DR_1-57_RESPONSE.PDF) We do not believe that the project can consistently achieve a 5ppm NOx limit much less its proposed 2.5ppm limit in this application.

Comment #4 Ammonia Emissions

The project is proposing a 10ppm ammonia slip limit. Recently the Tesla Power Plant in the BAAQMD was permitted with an ammonia slip limit of 5ppm, The Air Resources Board Guidance for Power Plant Siting and Best available control technology 1996 recommends a 5ppm ammonia slip limit or less. The South coast Air Quality Management District has adopted a 5ppm ammonia slip limit for combined cycle power plants. Because the project area is in violation of the federal and state PM-10 and PM 2.5 standards and the project substitutes POC emission reductions for NOx emission reduction credits the potential for secondary formation of PM-2.5 should require this

project to adopt a 5ppm ammonia slip limit.

Comment #5 PSD PERMIT

Table 5 Maximum Annual Facility Emissions, Combined-Cycle Configuration on page 12 lists the potential to emit for the HRSG and the Turbines as 100.005 tons per year. Table 10 Combined-Cycle Facility Emissions and PSD Trigger Levels, which assume exemption from the PSD, permit inexplicably listing the potential to emit as 99.2 tons per year. Table 5 levels would subject the project to PSD permitting requirements.

Comment #6 SCONOX

Please discuss in more detail why SCONOx emission controls, or other Oxidation Catalyst to reduce CO and POC emissions is not the preferred alternative to the emission control technology proposed for this project. Please include an economic feasibility analysis consistent with the requirements of the California Environmental Quality Act (CEQA).

Respectfully submitted,

Michael E. Boyd

Michael E. Boyd
President
CAlifornians for Renewable Energy, Inc. (CARE)
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Soquel, CA 95073

Verification

I am an officer of the Commenting Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of

my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of December 2004, at Soquel, California.

Michael E. Boyd

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