

LATHAM & WATKINS LLP

October 28, 2010

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-3
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

Re: CPV Sentinel Energy Project: Docket No. 07-AFC-3

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Comments on the Presiding Member's Proposed Decision.

Please note that the enclosed submittal was filed today via electronic mail to your attention and served on all parties to the above-referenced project.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 07-AFC-3 Proof of Service List (via email and U.S. Mail)
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File No. 030137-0012

DOCKET
07-AFC-3

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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:) Docket No. 07-AFC-03
)
APPLICATION FOR CERTIFICATION FOR)
THE CPV SENTINEL ENERGY PROJECT) APPLICANT’S COMMENTS ON THE
BY CPV SENTINEL, LLC) PRESIDING MEMBER’S PROPOSED
) DECISION
)

On behalf of CPV Sentinel, LLC. (“Applicant”) for the CPV Sentinel Energy Project (07-AFC-03) (“Project”), we hereby provide the Applicant’s comments on the Presiding Member’s Proposed Decision (PMPD).¹

INTRODUCTION

1. Introduction, Page 2, Paragraph 3.

The estimated on-line date for the proposed project is now Summer 2013. The first sentence of the third paragraph on page 2 of the Introduction should be modified as follows:

Project construction is expected to occur over an 18-month period with an estimated on-line date of Summer 2013 ~~May 2010~~.

2. Introduction, Page 4, Paragraph 2.

As indicated in the Applicant’s August 2008 Comments to the Preliminary Staff Assessment (Exhibit 82, p. 8), the vacant dwelling unit and related structures that were previously on the project site were demolished in January 2008. Therefore, the project site is now vacant. As indicated in the Applicant’s responses to Data Requests 29 and 31 (Exhibit 64, pp. 29-2 and 31-1), the landowner had pre-existing plans (not associated with the proposed project) to demolish these structures. Applicant recommends the following changes to the relevant text of the PMPD:

¹ Applicant’s comments are organized according to sections of the PMPD. For ease of reference, Applicant’s comments are number sequentially.

The 37-acre proposed power plant site is ~~currently vacant, with the exception of an unoccupied dwelling unit at the southeastern corner of the site.~~

3. Introduction, Page 2, Paragraph 4.

The last sentence of the fourth paragraph on page 2 of the Introduction should be modified as follows:

~~There were no formal intervenors. California Communities Against Toxics and Communities for a Better Environment were formal intervenors in the proceedings.~~

PROJECT DESCRIPTION AND PURPOSE

4. Project Description, Page 4, Figure 3.

Applicant's Project Design Refinements, dated November 19, 2008 (Exhibit 134), resulted in certain changes to the project description as reflected in Figure 2.4-1 (Revised) of Exhibit 134. Project Description Figure 3 of the PMPD should be replaced with Figure 2.4-1 (Revised) of Exhibit 134.

5. Project Description, Page 6, Second Paragraph.

Applicant's Project Design Refinements, dated November 19, 2008 (Exhibit 134, pp. 5, 9 and 10), resulted in certain changes to the project description, including those reflected in the proposed revised text below.

The project consists of eight natural gas-fired, GE Energy LMS100 combustion turbine generators (CTGs) operating in simple-cycle mode. Each exhaust stack will be 13.5 feet in diameter and 90 feet tall. The project will produce up to 850 MW. The facility will employ Best Available Control Technology (BACT) to minimize gas turbine emissions. To achieve BACT, the emissions control system will use water-injected combustors with selective catalytic reduction and oxidation catalyst. Auxiliary equipment will include an evaporative cooling spray mist fogging system for cooling the inlet combustion air to improve efficiency and output of the facility; a turbine intercooler; ~~two mechanical draft cooling towers (one five cell and one three cell)~~ eight single cell cooling towers, each with circulating water pumps; natural gas compressors; generator step-up transformers; ~~emergency generator~~; fire water pump skid; and water storage tanks. The project will use a crystallizer ZLD system to handle project wastewater. (Ex. 2, p. 2-4; Ex. 134, pp. 5, 9 and 10.)

6. Project Description, Page 8, Last Paragraph.

Applicant's Project Design Refinements, dated November 19, 2008 (Exhibit 134), resulted in certain changes to the project description, including those reflected in the proposed revised text below.

The project is expected to be operated by approximately 10 full-time employees and four part-time staff. CPV Sentinel will sign an operations and maintenance agreement with a third party operations and maintenance provider who will be responsible for hiring full-time and part-time employees. The facility will be capable of operation 24 hours per day, 7 days per week. However, it is anticipated that operations of ~~five of the eight units~~ will not exceed 2,805 hours per year, ~~while three of the eight units are not anticipated to operate more than 3,406 hours,~~ given the permit limits. The facility is expected to operate during the hottest hours of the summer when demand for electricity is the highest. The planned life of the generating facility is 30 years. (Ex. 2, pp. 2-26; 2-29; Ex. 134, pp. 5, 9 and 10.)

7. Project Description, Page 11, Finding of Fact No. 2.

Applicant's Project Design Refinements, dated November 19, 2008 (Exhibit 134, pp. 5, 9 and 10), resulted in certain changes to the project description, including those reflected in the proposed revised text below.

The CPV Sentinel Energy Project is a nominal 850 MW power plant consisting of eight natural gas-fired GE Energy LMS100 combustion turbine generators operating in simple-cycle mode utilizing ~~two mechanical draft~~ eight single cell cooling towers.

ENGINEERING ASSESSMENT

8. Reliability, Page 3, Section 3 Fuel and Water Availability

As set forth at page 6 of the Soil and Water section of the PMPD, potable water during operations will be supplied via pipeline from an existing municipal water line located near Dillon Road or from on-site well. The second sentence of the second paragraph, under the heading of Fuel and Water Availability should be changed to read as follows:

Potable water will be supplied via either on-site wells or a 3,200 foot long line extension that will connect to an existing municipal water line located near Dillon Road.

9. Transmission System Engineering, Page 12, Condition of Certification TSE-2, Paragraph 3

Consistent with Exhibit 209, Staff's Supplemental Testimony – Transmission System Engineering, the third paragraph of Condition of Certification TSE-2 should be changed as follows:

The project owner shall ~~ensure that submit to the CBO for review and approval~~, the names, qualifications, and registration numbers of all engineers assigned to the project are submitted to the CBO for review and approval. If any one of the designated engineers is subsequently reassigned or replaced, the project owner shall ~~submit~~ ensure that the name, qualifications, and registration number of the newly assigned engineer are submitted to the CBO for review and approval. The project owner shall notify the CPM of the CBO's approval of the new engineer. This engineer shall be authorized to halt earthwork and to require changes if site conditions are unsafe or do not conform with predicted conditions used as a basis for design of earthwork or foundations.

10. Transmission System Engineering, Page 14, Condition of Certification TSE-5

Numbered paragraph 5 of Condition of Certification TSE-5 should be changed as follows:

Termination facilities shall comply with applicable ~~PG&E~~ SCE interconnection standards.

11. Transmission System Engineering, Page 15, Condition of Certification TSE-5 Verification paragraph g)

Paragraph g) of the Verification to Condition of Certification TSE-5 should be changed as follows:

The Operational study report based on 2010 or current COD system conditions (including operational mitigation measures) from the CAISO and/or ~~PG&E~~ SCE.

PUBLIC HEALTH AND SAFETY

12. GHG, Pages 3-4, 10-11 and Greenhouse Gas Table 1

As a peaking facility, the proposed project is not subject to the Emissions Performance Standard set forth in Title 20, California Code of Regulations, section 2900 et seq.

13. Air Quality, Pages 5-11

Throughout the discussion of ambient air quality data at pages 5-11 of the Air Quality section of the PMPD, there are various references to "air basin," "region," etc. For clarification, Applicant notes that the data presented in this section of the PMPD were collected at various locations throughout the jurisdiction of the South Coast Air Quality Management District, including the South Coast Air Basin and the Salton Sea Air Basin (where the proposed project is located).

14. Air Quality, Page 7

The first sentence of the last paragraph should be modified to reflect that the entire South Coast Air Basin is currently designated non-attainment for the federal PM10 24-hour standard, and that the federal annual PM10 standard has been revoked, as follows:

~~San Bernardino County (but not the~~ The entire South Coast air basin) has been designated a non-attainment area for the federal 24-hour ~~and annual~~ PM10 ambient air quality standards.

15. Air Quality, Pages 11-12, Air Quality Table 3

As indicated in Exhibit 148, Supplemental Declaration of John Lague regarding Air Quality, more recent monitoring data collected during the time that the project has been under review indicate a downward trend in the ambient concentrations of PM10 and PM2.5 in the area where the proposed project is located. This is one of several reasons why the analysis completed by Staff of the impacts of project emissions when combined with ambient background concentrations should be viewed as highly conservative.

16. Air Quality, Page 20

The PMPD indicates at page 20 of the Air Quality section that project SOx emissions will be offset with either Emission Reduction Credits (ERCs) or Priority Reserve Credits (PMPD, p. 20). As indicated in Exhibit 141, SCAQMD Addendum to Determination of Compliance and POC, SOx offsets for the proposed project may also be obtained from the District's internal offset accounts as provided in AB 1318, pursuant to California Health & Safety Code Section 40440.14. The relevant sentence in the third paragraph should be modified as follows:

Similarly, the direct SO2 impacts from the CPV Sentinel project, which do not cause a violation of the SO2 ambient air quality standards, will need to be offset with either Emission Reduction Credits (ERCs) or offsets from the District's internal emission offset accounts pursuant to AB 1318 ~~Priority Reserve Credits (PRCs)~~ . . .

17. Air Quality, Page 23

The PMPD indicates at page 23 of the Air Quality section that the project must obtain sufficient offsets pursuant to either District Rule 1303 (ERCs) or District Regulation XX (RTCs). As indicated in Exhibit 141, SCAQMD Addendum to Determination of Compliance and POC, PM10 and SOx offsets for the proposed project may also be obtained from the District's internal offset accounts as provided in AB 1318, pursuant to California Health & Safety Code Section 40440.14. Air Quality Table 8, at p. 23 of the PMPD, accurately reflects these options. The first sentence under the heading "Emission Offsets" should be modified as follows:

The project must obtain sufficient offsets to satisfy either SCAQMD Rule 1303 (which requires Emission Reduction Credits (ERCs), AB 1318 or ~~and~~ Regulation XX (which requires participation in the RECLAIM program) as well as to mitigate the project impacts under CEQA.

18. Air Quality, Page 23, Table 8

Table 8 should be revised to reflect the correct quantity of VOC offsets required for the project as follows: ~~441~~ 456 lb/day. (See Exhibit 150, Letter from South Coast Air Quality Management District to the Energy Commission.)

19. Air Quality, Page 26

At page 26 of the Air Quality section, the PMPD indicates that the “record shows that the SCAQMD has made the necessary findings and has identified the emission credits applicable to the CPV Sentinel Project as documented in the Addendum to their Final Determination of Compliance.” Reference is made to Exhibit 141, the Addendum to the Final Determination of Compliance. Reference should also be made to Exhibit 149, the Revision to the SCAQMD Determination of Compliance, which included revised lists of the offsets to be made available to the proposed project.

20. Air Quality, Pages 26-27

The PMPD text at the bottom of page 26 and top of page 27 of the Air Quality section should be modified as follows:

The emission reductions have occurred during the calendar years ~~2002~~ 1999 and 2008 for PM10 credits and during calendar years ~~2002~~ 1999 through ~~2006~~ 2008 for SOx credits. (Ex. ~~141~~ 149, Appendix N pp. 1 ~~6-7~~)

21. Air Quality, Page 35

At page 35 of the Air Quality sections, the PMPD refers to ongoing violations of the state and federal PM2.5 ambient air quality standards. As indicated in Air Quality Table 2, at page 4 of the PMPD, the Salton Sea Air Basin, has not been designated non-attainment for either the state or the federal PM2.5 standards. Therefore, there are no “ongoing violations” of these standards as suggested at page 35 of the PMPD.

22. Air Quality, Page 36

In the discussion regarding District Rule 212, at page 36, the PMPD states that “A public notice will be issued followed by a 30-day public comment period prior to issuance of a permit.” The PMPD should reflect that the public notice required by District Rule 212 has already been issued, and the public comment period has expired. A copy of the required notice is contained in Exhibit 140, Preliminary Determination of Compliance.

23. Air Quality, Page 39

In the discussion regarding offsets, the PMPD states that “Non-RECLAIM criteria pollutants (CO, VOC, SOx and PM10) will be offset by either the purchase of emission reduction credits (ERCs) and/or other means, as allowed under District Rules and Regulations at a 1.2 to 1 ratio.” As indicated at page 33 of the PMPD, CO offsets are not required for the proposed project. In addition, as indicated at page 30 of the PMPD, PM10 and SOx offsets required for the proposed project will be obtained from the District’s internal emission offset accounts pursuant to AB 1318 at a ratio of 1 to 1. This sentence should be modified as follows:

Non-RECLAIM non-attainment criteria pollutants (~~CO~~, VOC, SO_x and PM₁₀) will be offset by either the purchase of emission reduction credits (ERCs) at a 1.2 to 1 ratio, and/or pursuant to AB 1318 ~~other means, as allowed under District Rules and Regulations~~ at a 1.2 to 1 ratio.

24. Air Quality, Page 43

The discussion of compliance with District Rule 2005(j) should be modified to read as follows:

CPV Sentinel will comply with the provisions of this rule by having demonstrated compliance with SCAQMD NSR Regulations XIII, AB 1318 and Rule 2005-NSR for RECLAIM as applicable.”

25. Air Quality, Page 43

In the discussion regarding District Regulation XXX, at page 43 of the Air Quality section, the PMPD states that “. . . the required public notice will be sent . . .” (emphasis added). The PMPD should reflect that the public notice required by District Rule 3006 has already been issued, and the EPA review period has expired. A copy of the required notice is contained in Exhibit 140, Preliminary Determination of Compliance.

26. Air Quality, Page 46

PM_{2.5} offsets are not required for the project (*See* PMPD, p. 9; Exhibit 214, pp. 2.1-15 and 2.1-43). Finding of Fact number 30 should be deleted, and Finding of Fact number 29 should be modified to read as follows:

The offsets and the limits imposed by Conditions of Certification AQ-SC8, AQ-1, AQ-5, AQ-7, and AQ-19 mitigate project impacts due to PM₁₀, PM_{2.5} and SO_x emissions below significance.

27. Air Quality, Page 46

Applicant recommends adding the following additional Conclusions of Law pursuant to California Health and Safety Code Section 40440.14(c):

3. The emission credits to be credited and transferred pursuant to AB 1318 satisfy all applicable legal requirements, and the credit and transfer by the South Coast District satisfy all applicable legal requirements.

28. Air Quality, Page 53, Condition of Certification AQ-SC8

Condition of Certification AQ-SC8 should be revised to reflect that the quantity of offsets required for VOC are 456 lb/day rather than 441 lb/day (*See* Exhibit 150, Letter from South Coast Air Quality Management District to the Energy Commission). AQ-SC8 should also be modified to reflect that PM_{2.5} offsets are not required for the project (*See* PMPD, p. 9; Exhibit 214, pp. 2.1-15 and 2.1-43).

Further changes are necessary to accurately reflect the proposed emission offset strategy for the project (See Exhibit 141, SCAQMD Addendum to Determination of Compliance and POC; and Exhibit 149, Revisions to the SCAQMD Addendum to Determination of Compliance and POC). The text of Condition of Certification AQ-SC8 should be revised as follows (the table contained in AQ-SC8 is correct):

AQ-SC8 The project owner shall provide emission offsets ~~reduction credits~~ to offset turbine exhaust and emergency equipment NO_x, VOC, SO_x, and PM10 and PM2.5 emissions in the form and amount required by the District. RECLAIM Trading Credits (RTCs) shall be provided for NO_x as is necessary to demonstrate compliance with Condition of Certification **AQ-16**.

Emission offsets ~~reduction credits (ERCs)~~ shall be provided from the District's internal offset accounts as provided in AB 1318, pursuant to California Health & Safety Code Section 40440.14 for SO_x (7,928 lb/year, includes the offset ratio of 1.0), and PM10 (118,120 lb/year, includes offset ratio of 1.0). Emission reduction credits (ERCs) shall be provided for ~~and~~ VOC (441-456 lb/day, includes offset ratio of 1.2).

The project owner shall surrender the ERCs for ~~SO_x, VOC and PM10~~ from among those that are listed in the table below or a modified list, as allowed by this condition. If additional ERCs are submitted, the project owner shall submit an updated table including the additional ERCs to the CPM. The project owner shall request CPM approval for any substitutions, modifications, or additions of credits listed.

The CPM, in consultation with the District, may approve any such change to the ERC list provided that the project remains in compliance with all applicable laws, ordinances, regulations, and standards, the requested change(s) will not cause the project to result in a significant environmental impact, and the SCAQMD confirms that each requested change is consistent with applicable federal and state laws and regulations.

The project owner shall request from the SCAQMD a report of the NSR Ledger Account for the project after the SCAQMD has issued the Permit to Construct. This report is to specifically identify the ERCs used to offset the project emissions.

29. Air Quality, Page 55, Condition of Certification AQ-1, Table

The table contained in Condition of Certification AQ-1 includes typographical errors that should be corrected as follows: for CO, the limit should be 6,477 lbs in any one month; for SO_x, the limit should be 293 lbs in any one month. (See Exhibit 141, SCAQMD Addendum to Determination of Compliance, Condition A63.1.)

30. Air Quality, Page 56, Condition of Certification AQ-1, Third Paragraph

The PM10 emission factor identified in Condition of Certification AQ-1 should be changed from 2.99 lb/mmcf to 2.49 lb/mmcf. (See Exhibit 141, SCAQMD Addendum to Determination of Compliance, page 24.)

The project owner shall calculate the commissioning emissions for VOC, SOx and PM10) for the commissioning month (beginning of the month to the last day of commissioning) using the equation below and the following emission factors: VOC: 2.06 lb/mmcf; PM10: ~~2.99~~ 2.49 lb/mmcf; and SOx: 0.12 lb/mmcf.

31. Air Quality, Page 59, Condition of Certification AQ-7, Second Bullet

The second bullet in Condition of Certification AQ-7 should read, “the initial source test shall be conducted no later than the latter of 180 days following the date of first fire or three hundred hours of operations after start-up.” (See Exhibit 141, SCAQMD Addendum to Determination of Compliance, Condition D29.1.)

- The initial source test shall be conducted no later than 180 days following the date of first fire or three hundred hours of operations after start-up.

32. Air Quality, Page 65, Condition of Certification AQ-16

The following changes to AQ-16 are needed to correct typographical errors and make the condition consistent with the Addendum to the Determination of Compliance. (See Exhibit 141, SCAQMD Addendum to Determination of Compliance, Engineering Analysis/Evaluation, Pages 28-29.)

To comply with this condition, the project owner, for the first year commissioning and operation, shall hold a minimum of:

~~•839~~ 35,323 lbs for each of Units 1-8 ~~41,835 lbs for each of Units 6-8,~~ a total of 286,709 lbs.

- ~~427~~ 77.25 lbs for the operation of the firewater pump.

A First Year Total of: 286,786 lbs NOx RTC.

To comply with this condition, the project owner, for the second year operation, shall hold a minimum of:

~~•410~~ 29,595 lbs for each of Units 1-8 ~~36,107 lbs for each of Units 6-8,~~ a total of 240,881 lbs.

- ~~427~~ 77.25 lbs for the operation of the firewater pump.

A Second Year Total of: 240,958 lbs NOx RTC.

33. Air Quality, Page 66, AIR QUALITY ATTACHMENT A

AIR QUALITY ATTACHMENT A should be replaced with AIR QUALITY Table 17a from Exhibit 216, Errata to the Final Staff Assessment Air Quality Addendum. Exhibit 216 provided an update to the table from the South Coast Air Quality Management District.

34. Air Quality, Page 70, AIR QUALITY ATTACHMENT B

AIR QUALITY Attachment B should be replaced with AIR QUALITY Table 18a from Exhibit 216, Errata to the Final Staff Assessment Air Quality Addendum, dated May 19, 2010. Exhibit 216 provided an update to the table from the South Coast Air Quality Management District.

35. Waste Management, Page 1, Fifth Paragraph

As indicated in the Applicant's August 2008 Comments to the Preliminary Staff Assessment (Exhibit 82, p. 8), the vacant dwelling unit and related structures that were previously on the project site were demolished in January 2008. Therefore, the project site is now vacant. As indicated in the Applicant's responses to Data Requests 29 and 31 (Exhibit 64, pp. 29-2 and 31-1), the landowner had pre-existing plans (not associated with the proposed project) to demolish these structures. Applicant recommends the following changes to the relevant text of the PMPD:

As described previously in this Decision, the Sentinel Project will be located on a 37-acre site in unincorporated Riverside County about 1.3 miles east of State Route 62, 1.7 miles north of I-10, and 1.3 miles west of Indian Avenue. The site is ~~currently vacant, with the exception of an unoccupied dwelling unit and garage at the southeastern corner of the site.~~ The surrounding area is characterized by industrial use with extensive development of wind energy facilities and transmission lines. (Ex. 19, p. 7.13-1; Ex. 200, p. 4.13-6; Ex. 82, p.8; Ex. 64, pp. 29-2 and 31-1.)

36. Soil and Water Resources, Page 18, Condition of Certification SOIL&WATER-8, paragraph (a)

The word "well" should be added to paragraph (a) of Condition of Certification SOIL&WATER-8, as indicated below:

a. Prior to the use of groundwater for commercial operation, the project owner shall install and maintain metering devices as part of the water supply and distribution system to document project process water use as required to monitor and record in hundreds of cubic feet per month the total volume(s) of water supplied to the CPV Sentinel Project from this water source. The metering devices shall be operational for the life of the project. Each well to be constructed will be metered separately or provisions will be made to ensure water use from each well can be identified and documented.

37. Soil and Water Resources, Page 18, Condition of Certification SOIL&WATER-8, paragraph (d)(2)

Paragraph (d)(2) of Condition of Certification SOIL&WATER-8, should be replaced with the following language that was proposed by the Applicant on October 29, 2008. (*See* Exhibit 133, Cover Memo for Applicant’s Additional Testimony of October 29, 2008.) Staff concurred with the Applicant’s proposed changes to SOIL&WATER-8, paragraph (d)(2). (*See* Exhibit 213, Second Set of Additional Testimony to the Final Staff Assessment by the Energy Commission Staff, dated October 30, 2008; *see also* Evidentiary Hearing Transcript, November 3, 2008, p.8, lines 19-22 [“MS. HOLMES: Yes. As we stated in our filing of October 30, staff concurs with the changes proposed by the applicant with respect to Soil and Water-8.”].)

d. If insufficient water has been recharged for project process needs pursuant to **SOIL&WATER-10**, the project shall not operate, unless the CPM determines that:

1. circumstances beyond the project owner’s control have temporarily prevented delivery of water purchased for project process needs to Desert Water Agency’s spreading grounds; and

2. the quantity of water conserved through implementation of new conservation measures 16 months or more previously in the Mission Creek Sub-basin pursuant to SOIL&WATER-15, together with any water recharged pursuant to SOIL&WATER-10 16 months or more previously that has not yet been used, ~~has resulted in conservation of water in an amount~~ is equal to or greater than that proposed to be used for project process water needs ~~16 months or more in advance of the month in which it is to be used for project process needs.~~

38. Traffic and Transportation, Pages 5, 10 and 13-14, Condition of Certification TRANS-3

The PMPD suggests that greater specificity is required in Condition of Certification TRANS-3 to ensure that potential adverse impacts, including potential cumulative impacts, to levels of service at three specified intersections in the vicinity of the project site as a result of construction traffic will be mitigated below the level of significance (PMPD, pp. 5 and 10). The three intersections in question are Indian Avenue/Dillon Road, Indian Avenue/20th Street, and Indian Avenue/I-10 westbound ramps (PMPD, p. 5). All three intersections may experience a worsened level of service during the PM peak hours (Exhibit 200, FSA, p. 4.10-8). In addition, two of the intersections, Indian Avenue/Dillon Road and Indian Avenue/20th Street, are potentially affected by cumulative impacts associated with the project and related projects during the PM peak hours (Exhibit 200, FSA, p. 4.10-17). The Staff proposed monitoring and manual intervention, as necessary, to control traffic flow and mitigate potential impacts at these intersections (*See*, Condition of Certification TRANS-3). The PMPD seeks greater clarification regarding who will monitor the potentially affected intersections and determine the need for manual intervention, as well as what performance standard will be used to determine the need for manual intervention.

Applicant believes that the project's temporary construction traffic impacts are fully evaluated and mitigated by the analysis provided in the AFC (Exhibit 16, Application for Certification, Section 7.10, Traffic and Transportation, pp. 7.10-7 through 7.10-12, TRA-1 and TRA-2), the FSA (Exhibit 200, pp. 4.10-7 through 4.10-12, TRANS-1 through TRANS-4), and in expert testimony (Exhibit 117, Declaration of N. Casil regarding Traffic and Transportation, dated October 16, 2008). The project will not cause a cumulatively considerable contribution to a cumulative traffic-related significant impact. (Exhibit 16, p. 7.10-14; Exhibit 200, p. 4.10-16 through 4.10-17.) Project construction traffic will not significantly impact any low income or minority populations. (Exhibit 1, Application for Certification, Section 7.10, Introduction and Project Description, p. 1-7; Exhibit 200, p. 4.10-17.)

To address the desire for greater specificity, and to further clarify that TRANS-3 will mitigate temporary traffic impacts to less than significant levels, both on a project-level and cumulative basis, the Applicant proposes addition of the following provision to TRANS-3. This addition will mandate manual traffic control intervention at the affected intersections during the relevant periods of time; thereby eliminating any uncertainty regarding the methodology for monitoring and determining the need for such intervention. This addition will eliminate any uncertainty regarding the effectiveness of the proposed mitigation in reducing any project related, cumulative, or environmental justice impacts associated with traffic at the affected intersections.

The traffic control and implementation plan shall include and describe the following minimum requirements:

...

- o In addition to other traffic control measures, during the peak three (3) months of construction activities, provide manual traffic control intervention for every day of construction at least 30 minutes before and during the 4-6 PM peak hour at the following intersections: Indian Avenue/Dillon Road, Indian Avenue/20th Street, and Indian Avenue/I-10 westbound ramps.

With the foregoing addition to Condition of Certification TRANS-3, Applicant recommends modifying Findings of Fact 4 and 11 at page 11 of the Traffic and Transportation section of the PMPD as follows:

4. ~~The parties must~~ Condition of Certification TRANS-3 will mitigate the increased delay at these intersections below the level of significance.

11. Identified developments in the area will further contribute to the increase of intersection delay resulting in a potentially cumulatively considerable and significant cumulative impact that ~~may not will~~ be reduced to a less than significant level ~~without~~ extensive road work and traffic signalization with implementation of Condition of Certification TRANS-3.

39. Traffic and Transportation, Page 7 and 13-14, Condition of Certification TRANS-3

The PMPD requests citations to specific evidence in the record demonstrating that the construction of the recycled water pipeline under South Murray Canyon Drive will not result in a significant traffic impact or disruption to residences (PMPD, p. 7). As the PMPD correctly identifies on page 7 of the Traffic and Transportation section, the construction of the entire recycled water pipeline is expected to take no more than a month and construction affecting South Murray Canyon Drive will take no more than a day. (*See also* Exhibit 70, p. 12; Exhibit 200, p. 4.10-10.) Thus, any impact will be very temporary in nature. (*See id.*) Furthermore, any potential temporary impact affecting South Murray Canyon Drive will be mitigated to less than significant levels through the use of an alternative route for residences via the intersection of Kings Road West (thus reducing potential access disruptions during the single day of construction activities) (Exhibit 70, p. 13) and by providing signage traffic control in accordance with applicable regulations. (Exhibit 70, p. 13). Thus, construction traffic impacts related to the underground water pipeline will be less than significant. (Exhibit 70, p. 13; Exhibit 117, p. 2.) Thus, there is ample evidence in the record to support a finding that construction of the recycled water pipeline under South Murray Canyon Drive will not result in a significant traffic impact or disruption to residences. Nevertheless, to further ensure that impacts are reduced to less than significant levels, Applicant proposes the following additions to Condition of Certification TRANS-3.

The traffic control and implementation plan shall include and describe the following minimum requirements:

...

- o Ensure access to adjacent residential and commercial property during the construction of all linears, including but not limited to ensuring residential and commercial access during the construction of the underground recycled water pipeline by implementing the following measures: (1) during construction affecting South Murray Canyon Drive, rout affected residential or commercial traffic to an alternative access route via the intersection of Kings Road West or other more efficient alternative route; (2) use signage and traffic controls required by applicable regulations; and (3) provide load rated steel plates to cover open trenches fronting driveways, as necessary;

- Ensure homeowners and property owners will be notified in advance of construction affecting South Murray Canyon Drive and ensure the construction contractor will be required to prioritize work affecting South Murray Canyon Drive to minimize potential inconveniences to residences and businesses; and

...

DATED: October 28, 2010

Respectfully submitted,

/s/ Michael Carroll

Michael Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:) Docket No. 07-AFC-3
)
Application for Certification,) **PROOF OF SERVICE**
for the CPV SENTINEL ENERGY PROJECT)
) (July 1, 2010]
)
_____)

APPLICANT

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on October 28, 2010, I served and filed copies of the attached:

Applicant's Comments on the Presiding Member's Proposed Decision

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

- Transmission by depositing one original paper copy with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

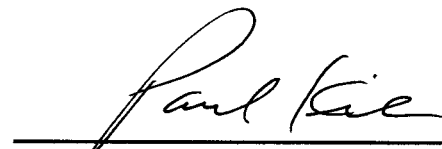
CALIFORNIA ENERGY COMMISSION
Attn: DOCKET NO. 07-AFC-3
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For Service to All Other Parties

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I further declare that transmission via U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 28, 2010, at Costa Mesa, California.



Paul Kihm