

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

IN THE MATTER OF:

APPLICATION FOR CERTIFICATION FOR THE
PANOCHÉ ENERGY CENTER

DOCKET No. 06-AFC-5



**ERRATA AND REVISIONS
TO THE PRESIDING MEMBER'S PROPOSED DECISION**

Following the close of the public and party comment period on the Presiding Member's Proposed Decision (PMPD), dated November 14, 2007, and the taking of additional evidence and comments at a public meeting held on December 12, 2007, the Siting Committee considering the above Application for Certification issues the following errata and revisions to the PMPD and recommends its adoption by the Energy Commission. Additions to the PMPD are shown in underline and deletions shown in ~~strikeout~~.

P. 2, Introduction, last paragraph:

Construction of the PEC, from site preparation and grading to commercial operation, is expected to take approximately 17 ~~43~~ months.

P. 12, Project Description first paragraph:

There will be an average monthly and peak monthly workforce of approximately 178 ~~450~~ and 364, respectively, construction craft people, supervisory, support, and construction management personnel onsite during construction.

P. 24, Alternatives, second paragraph:

The evidentiary record further indicates that the preferable alternative is the proposed project using the ~~semi~~-confined aquifer, brackish water for the project water supply, and other suggested mitigation.

P. 82, Transmission System Engineering, Condition TSE-3:

TSE-3 If any discrepancy in design and/or construction is discovered in any engineering work that has undergone CBO design review and approval, the project owner shall document the discrepancy and recommend corrective action. (~~2004~~ 2007 California Building Code, Appendix Chapter 1, Section ~~108.4~~ 109.6, Approval Required; Chapter 17, Section ~~1704.3~~ 1704.1.2, Report Requirement ~~Duties and Responsibilities of the Special Inspector~~; Appendix Chapter ~~33~~,

~~Section 3317.7, Notification of Noncompliance~~**[Verify correct version]**). The discrepancy documentation shall become a controlled document and shall be submitted to the CBO for review and approval and shall reference this Condition of Certification.

Verification: The project owner shall submit a copy of the CBO's approval or disapproval of any corrective action taken to resolve a discrepancy to the CPM within 15 days of receipt. If disapproved, the project owner shall advise the CPM, within five days, the reason for disapproval, and the revised corrective action required to obtain the CBO's approval.

P. 83, Transmission System Engineering, Condition **TSE-5**:

TSE-5 The project owner shall ensure that the design, construction and operation of the proposed transmission facilities will conform to all applicable LORS, including the requirements listed below. The project owner shall submit the required number of copies of the design drawings and calculations as determined by the CBO.

1. The existing Panoche Substation will require expansion and upgrades to accommodate the addition of the PEC.
 - a. The Substation will require expansion for about 300 by 320 feet.
 - b. Install a pair of bus sectionalizing breakers to split the busses into two double-bus sections.
 - c. Install one 230 kV bus parallel breaker on the north side using the existing spare bay.
 - d. Adding two new 230 kV bays, ~~one for the relocation of the Gates-Panoche Line #1 and the other for the new generation tie line~~ for the relocation of the Gates-Panoche #1 and #2 230 kV lines.
 - e. Protection requirements will consist of a fully redundant, double-pilot current differential scheme for the generation tie line, four current transformers and protective relays replacement.
2. The PEC would be interconnected to the Panoche Substation via a single 230 kV transmission line approximately 300 feet long with 795 kcmil ACSS conductor or conductor with a higher rating.
3. The power plant outlet line shall meet or exceed the electrical, mechanical, civil and structural requirements of CPUC General Order 95 or National Electric Safety Code (NESC); Title 8 of the California Code and Regulations (Title 8); Articles 35, 36, and 37 of the "High Voltage Electric Safety Orders", California ISO standards, National Electric Code (NEC), and related industry standards.

4. Breakers and busses in the power plant switchyard and other switchyards, where applicable, shall be sized to comply with a short-circuit analysis.
5. Outlet line crossings and line parallels with transmission and distribution facilities shall be coordinated with the transmission line owner and comply with the owner's standards.
6. The project conductors shall be sized to accommodate the full output from the project.
7. Termination facilities shall comply with applicable PG&E interconnection standards.
8. The project owner shall provide to the CPM:
 - a. The final Detailed Facility Study (DFS) including a description of facility upgrades, operational mitigation measures, and/or Special Protection System sequencing and timing if applicable,
 - b. Executed project owner and California ISO Facility Interconnection Agreement,
9. A request for minor changes to the facilities described in this Condition may be allowed if the project owner informs the CBO and CPM and receives approval for the proposed change. A detailed description of the proposed change and complete engineering, environmental, and economic rationale for the change shall accompany the request. Construction involving changed equipment or substation configurations shall not begin without prior written approval of the changes by the CBO and the CPM.

Verification: At least 60 days prior to the start of construction of transmission facilities (or a lesser number of days mutually agreed to by the project owner and CBO), the project owner shall submit to the CBO for approval:

1. Design drawings, specifications, and calculations conforming with CPUC General Order 95 or National Electric Safety Code (NESC); Title 8 of the California Code and Regulations (Title 8); Articles 35, 36, and 37 of the "High Voltage Electric Safety Orders", California ISO standards, National Electric Code (NEC), and related industry standards, for the poles/towers, foundations, anchor bolts, conductors, grounding systems, and major switchyard equipment.
2. For each element of the transmission facilities identified above, the submittal package to the CBO shall contain the design criteria, a discussion of the calculation method(s), a sample calculation based on "worst case conditions" [footnote: Worse-case conditions for the foundations would include for instance, a dead-end or angle pole], and a statement signed and sealed by the registered engineer in responsible charge, or other acceptable alternative

verification, that the transmission element(s) will conform with CPUC General Order 95 or National Electric Safety Code (NESC); Title 8 of the California Code and Regulations (Title 8); Articles 35, 36, and 37 of the "High Voltage Electric Safety Orders", California ISO standards, National Electric Code (NEC), and related industry standards.

3. Electrical one-line diagrams signed and sealed by the registered professional electrical engineer in responsible charge, a route map, and an engineering description of equipment, and the configurations covered by requirements **TSE-5 a) 1** through **h) 9**, above.
4. The final DFS, including a description of facility upgrades, operational mitigation measures, and/or SPS sequencing and timing if applicable, shall be provided concurrently to the CPM.
5. At least 60 days prior to the construction of transmission facilities, the project owner shall inform the CBO and the CPM of any impending changes which may not conform to the facilities described in this Condition and request approval to implement such changes.

P. 95, Air Quality, Table 1, Footnote a:

^a ARB has approved a revised 1-hour standard for NO₂ (0.18 ppm or 338 ug/m³) and a new annual standard for NO₂ (0.030 ppm or 56 ug/m³); however, these standards have not yet been officially approved by the Office of Administrative Law ~~were not expected to be officially approved prior to the completion of the FSA.~~

P. 96, Air Quality, second paragraph:

The PEC is located within the San Joaquin Valley Air Basin (SJVAB) and under the jurisdiction of the San Joaquin Valley Air Pollution Control District (District). This area is designated as nonattainment for both the federal and state ozone, ~~and~~ PM10, and PM2.5 standards.

P. 106, Air Quality, Finding 4:

4. Project nonattainment and nonattainment precursor criteria pollutant emissions will be fully offset.

P. 109, Air Quality, Condition **AQ-SC4**, last paragraph:

Verification: The AQCMP shall include a section detailing how the additional mitigation measures will be accomplished within the time limits specified.

P. 111, Air Quality, Condition **AQ-SC7**, first paragraph:

. . . This Condition is in addition to the District offset requirements provided in Conditions of Certification **AQ-7478** through **AQ-7781**.

P. 133, Air Quality, Condition **AQ-87**, verification:

Verification: The project owner shall submit the results of the initial and annual source tests per Condition **AQ-3335**.

P. 168, Biological Resources, Impacts to Wildlife Corridors:

Impacts to Wildlife Corridors. ~~Substantial wildlife movement through the area is lacking and the project area is not a significant wildlife corridor, so no significant impacts to wildlife movement are expected. The project area is located in an area that has been identified by USFWS to be preserved for San Joaquin Kit Fox (SJKF) habitat connectivity. Construction and operation of the project would result in preclusion of SJKF movement through the area, thereby resulting in adverse impacts to SJKF habitat connectivity and movement corridors. Compensation for this loss of habitat, as described in Condition of Certification **BIO-10** (Habitat Compensation), would mitigate impacts to wildlife corridors to less than significant levels. (Ex. 100, p. 4.2-14.)~~

P. 181, Soil and Water, fourth paragraph:

. . . The Applicant has applied for an Injection Permit from the United States Environmental Protection Agency. While a final permit has not been issued, a rough draft permit was provided to Staff on November 1, 2007, and USEPA indicates that the permit requirements are unlikely to change from those in the draft permit . . .

P. 185, Soil and Water, Finding 2:

2. Use of water from the confined aquifer in combination with the Applicant's contribution of funds to the Westland's Water District Agricultural Water Conservation Program is consistent with the state water policies for the conservation of potable water supplies.

P. 200, Cultural Resources, first full paragraph:

~~In several of the Conditions of Certification proposed by Staff, the phrase "prior to the start of preconstruction site mobilization, construction ground disturbance, construction grading, boring and trenching, and construction" appears. We understand the intent of the phrase as to trigger the associated requirement at the earliest of those events which will, by definition, be preconstruction site mobilization. We have therefore truncated the phrase to "prior to the start of~~

~~preconstruction site mobilization” wherever it appears in the Conditions as a timing standard.~~

P. 201 – 211, Cultural Resources, Conditions **CUL-1 – CUL-8**:

The phrases “prior to the start of preconstruction site mobilization” and “prior to the start of preconstruction site mobilization, construction ground disturbance, construction grading, boring and trenching, and construction” are replaced by “ground disturbance.” At the first point of substitution, a footnote is added to indicate that “ground disturbance,” for purposes of Conditions **CUL-1 – CUL-8**, includes “preconstruction site mobilization, construction ground disturbance, construction grading, boring and trenching, and construction.”

P. 233, Land Use, end of first partial paragraph:

. . . The County Board of Supervisors has previously approved Conditional Use Permits for power generating facilities on land designated Agriculture and zoned AE-20 (Ex. 100, Land Use Appendix 4, pp. 2-3), including the nearby Wellhead and CalPeak peaker plants. The County applied Applying the same rationale analysis to the County zoning ordinance. Based on that analysis, Staff concludes assumes that a power plant is allowed in the AE-20 zone in this location. (Ex. 100, p. 4.5-12.)

P. 241 – 242, Noise, last paragraph:

The ambient daytime L_{eq} level at ML2, 46 dBA, when added to the highest construction noise at this location, 64 dBA, results in 64 dBA L_{eq} , an increase of 18 dBA over the existing ambient level. An increase of more than 10 dBA is significant. An increase of 18 dBA in the ambient noise level at ML2 is enough to cause annoyance. Staff and the Applicant do not consider this a significant impact because:

- The construction activities are temporary and only during the daytime;
- The Applicant will not be pile driving during construction of this project. Pile driving is generally about 10 decibels noisier than other construction activities;
- The noise data used to estimate the noise levels is about 30 years old and does not take into account that modern construction equipment is less noisy; and
- Any noise considered intrusive can be addressed by the complaint process established in Condition **NOISE-2**. (Transcript of December 12, 2007 Presiding Member’s Proposed Decision Public Comment Hearing, [page unavailable].)

The Applicant ~~has promised~~ to address this by relocating the residents to a location that is approximately 4000 feet north of the PEC site, ~~“prior to the start~~

of construction.” (Ex. 5, Data Responses 69 and 70.) However, Condition **NOISE-5**, and an agreement recently executed by the Applicant (Ex. 51), indicates that the relocation is to take place prior to initial turbine startup, which could subject the residents to construction noise. Therefore, in order to ensure that the residents are protected from both construction and operation noise, the Commission is revising Condition of Certification **NOISE-5** to require that the relocation take place prior to ground disturbance.

P. 254, Noise, Condition **NOISE-5**:

NOISE-5 Prior to the initial startup of the first combustion turbine ~~start of noisy construction activities~~, the project owner shall relocate the residents on the property at ML2 to the location specified in the signed agreement between the Applicant and the landowner of the property at ML2. . . .

P. 256, Noise:

Delete Condition **NOISE-8** as not necessary because the Applicant will not be using pile driving during construction of the PEC.

PILE DRIVING MANAGEMENT

~~**NOISE-8** The project owner shall perform pile driving using a quieter process than the traditional pile driving techniques to ensure that noise from these operations does not cause annoyance at monitoring locations ML1, ML2, and ML3.~~

Verification: ~~At least 15 days prior to first pile driving, the project owner shall submit to the CPM a description of the pile driving technique to be employed, including calculations showing its projected noise impacts at monitoring locations ML1, ML2, and ML3.~~

P. 260, Socioeconomics, second paragraph:

The PEC site is in the Mendota Unified School District, which has four schools and an enrollment of ~~2,355~~ 2,434 students. The Mendota Unified School District is currently at capacity with plans to grow and add a middle school . . .

P. 261, Socioeconomics, second paragraph:

Fresno County contracts private emergency medical services from American Ambulance. American Ambulance has basic and advanced service and at least one paramedic available at all times. The project site is covered by the Mendota Station about 12 miles or 15 minutes away. Mendota Station can receive supplies of additional units from neighboring stations in Kerman and Los Banos in Merced County and has rapid helicopter service in Fresno called Skylife which is 45 miles, or about a one-half hour, one-way flight, away. Fresno Trauma Center, Coalinga Regional Memorial Hospital, Memorial Hospital Los Banos, and

Dos Palos Memorial Hospital are within approximately one hour's driving distance of the PEC. The PEC would not displace significant numbers of people or directly or indirectly induce substantial population growth. Hence, there are no significant socioeconomic impacts upon the availability of medical services. (Ex. 100, pp. 4.8-7 – 4.8-9.)

P. 263, Socioeconomics, Cumulative Impacts, first paragraph:

Staff examined the potential impacts of the worst case scenario in which the PEC, Starwood-Midway, and Bullard Energy Center (in the City of Fresno) ~~and San Joaquin Valley Energy Center (approved in 2004 and currently on hold)~~ are constructed simultaneously. Even in that unlikely circumstance the labor forces required would amount to approximately 5 percent of the 2002 Fresno County construction workforce. Millwrights might be in such short supply from the four-county area (Fresno, Madera, Tulare, and Kings counties) as well as San Benito and Merced counties that it would be necessary to import them from other areas; the City of Fresno has ample supplies of temporary housing (hotels and motels) to accommodate them. Therefore, no cumulatively significant impacts are expected from the construction of the PEC. (Ex. 100, pp. 4.8-9 – 4.8-10.)

P. 265, Traffic and Transportation, third paragraph, add the following as a footnote attached to the phrase "school bus service":

Neither the Applicant nor Staff found any impacts to school bus traffic from the construction or operation of the PEC. Nonetheless, in response to concerns about potential impacts due to the increased traffic during project construction raised in the proceeding regarding the nearby Starwood Power Project, the Applicant volunteered to conduct a worker awareness program alerting construction workers to the presence of the school bus and a refresher on applicable laws and driving techniques to prevent mishaps involving the school bus or children waiting for the bus. That plan is described in Condition **TRANS-2**. A similar requirement is proposed for the Starwood Power Project.

P. 272, Traffic and Transportation, add Condition of Certification **TRANS-2**

TRANS-2 Worker Traffic Safety Training

The project owner shall brief and train all construction workers that commute to the site, and all truck drivers and delivery drivers that drive to and from the site during construction, on safety awareness and standards with regard to the nearby bus stop(s) and with regard to school children safety. The briefing and training shall be conducted for such workers and drivers before they begin working at the site and shall include the following elements:

- California highway and driving laws and regulations that relate to school busses and school children;

- The locations of bus stops and residences along the traffic routes in the vicinity of the site;
- The approximate times that school bus routes are driven to pick up and to drop off students;
- The type of risks to school children that can arrive on rural highways and roads during elevated construction traffic periods;
- The particular risks that can arise during low visibility conditions such as when foggy or at night;
- The need to be exceptionally careful and patient when following a slower moving vehicle to ensure heightened danger activities such as passing do not endanger school children crossing or walking along the road; and
- The need to be exceptionally alert and cautious during the morning and afternoon school bus periods and also the need to be alert for shortened days that result in school buses being present at unusual times.

Verification: The project owner shall report the results of the school bus and school children safety training in its monthly compliance reports submitted to the CPM, beginning with the first report after site mobilization and continuing until construction is completed

Appendix A, Exhibit List:

- Exhibit 53** Letter from Applicant's counsel, Melissa Foster, dated October 15, 2007 re: Clarification of Natural Gas Pipeline Route. Sponsored by Applicant and received into evidence on December 12, 2007.
- Exhibit 54** Letter from Applicant's counsel, Melissa Foster, dated October 22, 2007 re: Applicant's Revised Proposal for Condition of Certification HAZ-10. Sponsored by Applicant and received into evidence on December 12, 2007.
- Exhibit 105** Supplemental Testimony of Rick Tyler regarding Hazardous Materials Handling. Sponsored by Staff and received into evidence on December 12, 2007.
- Exhibit 106** Memorandum from Jared Babula dated October 12, 2007 regarding Condition CUL-5. Sponsored by Staff and received into evidence on December 12, 2007.
- Exhibit 107** Memorandum from ~~staff~~ James W. Reede, Jr. dated November 13, 2007, supplemental Soil and Water Resources testimony of John Kessler, November 1, 2007 email from Robin George (USEPA) to James Reede, and USEPA rough draft injection well permit dated November __, 2007. Sponsored by Staff and received into evidence on December 12, 2007.

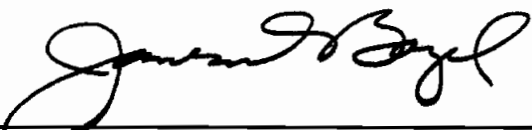
Global Changes—the following changes will be made throughout the Decision:

- All references to the Starwood project are changed to read “Starwood Power Project.”
- Various grammatical, typographic, and formatting corrections, too minor to be cataloged here.

Dated: December 17, 2007, at Sacramento, California.



JEFFREY D. BYRON
Commissioner and Presiding Member
Panoche AFC Committee



JAMES D. BOYD
Vice-Chairman and Associate Member
Panoche AFC Committee

Mailed to Lists: POS, 7206, 7207, 7208, 7209

Proof of Service List (Revised on
filled with Original Document. Mailed from
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OF CALIFORNIA

APPLICATION FOR CERTIFICATION
FOR THE PANOCHÉ ENERGY
CENTER

Docket No. 06-AFC-5
PROOF OF SERVICE
(Revised 10/31/07)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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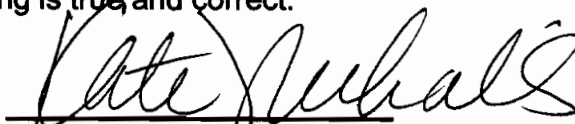
DECLARATION OF SERVICE

I, Kate Nicholls, declare that on December 17, 2007, I deposited copies of the attached Errata and Revisions to the Presiding Member's Proposed Decision in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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


Kate Nicholls