



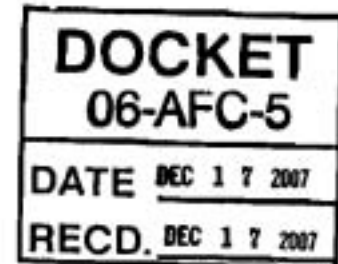
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December 17, 2007

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VIA HAND DELIVERY AND ELECTRONIC MAIL

Hearing Officer Paul Kramer
California Energy Commission
1516 9th Street
Sacramento, CA 95814



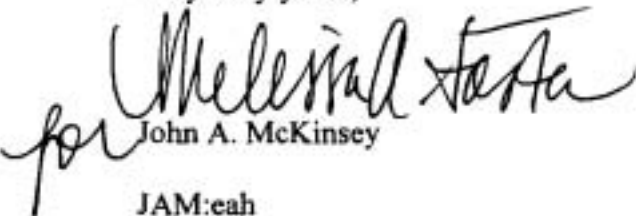
Re: Panoche Energy Center (06-AFC-5)

Dear Hearing Officer Kramer:

Attached please find Panoche Energy Center LLC's ("Applicant") proposed changes to condition of certification Soil and Water - 6. As explained in the attached information, existing condition Soil and Water - 6 requires that the Environmental Protection Agency ("EPA")'s deep injection well permit be issued prior to site mobilization for the whole project. Despite Applicant submitting an application for this permit over fifteen months ago, the EPA has conveyed to the Applicant that it will not issue the final permit for several more months. Because a draft permit has been issued and shared with CEC Staff, because Soil and Water - 6 was written before the EPA issued a draft permit, and because there are many examples of conditions of certification that allow site mobilization to occur before some permits are obtained (Soil and Water - 7 is one example), Applicant believes that this change should be acceptable to all parties.

Applicant only makes this change request because it is necessary for the project to be viable.

Very truly yours,


John A. McKinsey
JAM:eah



SOIL & WATER-6

The project owner shall provide the CPM with evidence of Waste Discharge Requirements (WDR) from the RWQCB and a Class 1 Non-hazardous UIC permit for six deep injection wells issued by the U.S. Environmental Protection Agency (USEPA) prior to construction of any deep injection well ~~any site mobilization activities~~. The project owner must comply with the specific conditions regarding the construction and operation of the injection wells including the water quality requirements for wastewater, sampling, analysis, and monitoring for the deep injection wells. Changes to the design, construction or operation of the deep injection wells permitted by the WDRs and UIC Class 1 Permit during either construction or operation will be noticed in writing to the CPM, RWQCB, and USEPA Region IX. The project owner will notify the CPM in writing of changes to the WDRs or Class 1 Permit that are instituted by either the Applicant, RWQCB or USEPA Region IX, including permit renewals.

Verification: Thirty days prior to construction of any deep injection well ~~site mobilization~~, the project owner will obtain and submit to the CPM a copy of final WDRs issued by the RWQCB and the final approval of the UIC Class 1 Permit issued by USEPA Region IX for the construction and operation of the deep injection wells. During the life of the project, the project owner will provide the CPM with the annual monitoring report summary required by the WDRs and UIC Class 1 Permit, and will fully explain violations, exceedances, enforcement actions or corrective actions.

Explanation and justification:

Applicant first applied for the UIC Class 1 Permit on September 15, 2006, and the USEPA deemed the application administratively complete on October 20, 2006. In November 2007, USEPA provided a rough draft version of the Permit to CEC Staff and to Applicant for comment. Applicant provided comments to the rough draft report on December 7, 2007. Applicant does not expect any problems with obtaining the UIC Class 1 Permit. To date, however, the USEPA has taken over fifteen months to consider the permit application and still has yet to issue the Permit. Given such delay, Applicant does not want the agency's timeline to halt construction of this project. Since the Permit only relates to the deep injection wells, Applicant seeks a modification to COC S&W-6 to reflect requirements that are triggered by "construction of any deep injection well", rather than "site mobilization activities," because the latter is not needed as the condition precedent to protect the environment nor to ensure LORS compliance for the deep injection wells.

Applicant stresses that the changes proposed herein are necessary for the project to move forward in a timely fashion. Applicant did not request this change at an earlier date as Applicant did not foresee such a delay by USEPA in the issuance of the UIC Class 1 Permit.