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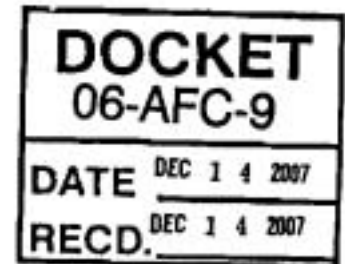
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December 14, 2007

File No. 030137-0008

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-9
1516 Ninth Street, MS-4
Sacramento, California 95814-5512



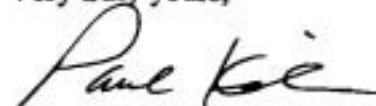
Re: Colusa Generating Station Project: Docket No. 06-AFC-9

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 Final Staff Assessment.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the CEC's current electronic proof of service list.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 06-AFC-9 Proof of Service List (w/ encl. via e-mail)
Michael J. Carroll, Esq. (w/ encl.)

Comments on the Final Staff Assessment

Application for Certification (06-AFC-9) for **COLUSA GENERATING STATION** **Colusa County, California**

December 14, 2007



Prepared for:

E&L Westcoast, LLC

Prepared by:

URS

**Comments on the Final Staff Assessment
Colusa Generating Station
December 14, 2007**

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
1.	4.1-59	N/A	N/A	AQ-SC7 refers to AQ-24 in three places, whereas it should refer to AQ-27.	In AQ-SC7, please change three references from AQ-24 to AQ-27.
2.	4.1-67	N/A	N/A	The table in AQ-27 is not consistent with Appendix A on page 4.1-75. It is missing footnote (a) that appears in Appendix A. The word "days" is missing in the first sentence of the AQ-27 verification section.	Footnote below should be added to the table in AQ-27 to make it consistent with Appendix A on page 4.1-75: <i>"a The quantities listed are the certificate totals. The total quantity required for offsetting may be less than the total for each pollutant shown above, and those remaining credits can be retained by the Applicant at their discretion after surrendering the amounts required."</i> In addition, please add "days" after "30" in the first sentence of the verification section.
3.	4.2-39	BIO-19: "The project owner shall replace permanently impacted wetlands at a USFWS approved wetland mitigation bank, as specified in the USACE Individual Permit."	N/A	BIO-19: "The project owner shall replace a minimum of 1.28 acres of permanently impacted wetlands and special-status branchiopod habitat at a USFWS approved wetland mitigation bank, and restore temporarily impacted wetlands and other waters of the U.S., as specified in the USACE Individual Permit."	Please change 1.28 acres to 1.25 acres. Table 5 on page 4.2-16: "Approximate Mitigation Land Required" for "Freshwater marshes" should also be changed from 0.87 to 0.84. This would give a total of 1.25 acres. Please change throughout document.

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4.	4.4.-11	<p>"The fire district estimates that they suffer a funding shortfall of more than \$200,000 for effectively responding to a large facility such as the proposed CGS."</p>	<p>Applicant PSA Comment 11: "The approximately \$200,000 figure identified by the Maxwell Fire Protection District (MFPD) is not an estimate of the additional funds needed in order to effectively respond to potential incidents at the facility. Rather, it is the MFPD's estimate of the additional annual tax revenues that would flow to the MFPD if the project were to be privately owned, as opposed to being owned by an investor owned utility. The Applicant has not been able to verify that the difference in tax revenues projected by the MFPD is correct. More importantly, the amount has no relationship to additional demands that might be placed on the MFPD as a result of the project. The Applicant engaged the services of an expert chosen by the MFPD to assess the potential impacts of the project on the MFPD. That expert, The McMullen Company, Inc., issued its report and recommendations on April 11, 2007. The report has been docketed. While the report did not include a cost estimate for implementing the recommendations contained therein, the cost is unquestionably far below the</p>	<p>Same as PSA and addition of Condition of Certification WS-6 in the Worker Safety section</p>	<p>Applicant requests that the CEC reconsider the previous comment on the PSA. Please see FSA Comment Number 13 below for additional comments regarding Condition of Certification WS-6.</p>

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
			<p>\$200,000+ per year figure sought by the MFPD. The Applicant is prepared to implement all of the following recommendations made by The McMullen Company, Inc.:</p> <ul style="list-style-type: none"> • CGS provide for the cost of training MFPD firefighters on terrorism for first responders • CGS provide for the cost of training fire responders to the level of Fire Responder Operational • Obtain assurance from the County that appropriate fees derived from the CGS property taxes are appropriately disseminated to the MFPD • Plans for fire apparatus access roads be submitted to the MFPD for review and approval • Comply with specific fire safety measures during construction • All plan review and onsite fire-related building and fire code inspections be conducted • CGS and MFPD develop a Risk Management Plan • CGS provide for the cost of training all MFPD first responders" 		

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
5.	4.4-17	HAZ-7: The project owner shall direct all vendors delivering any hazardous materials to the site to use only the route approved by the CPM (From Interstate 710, west along Bandini Boulevard, south of Downey Street...)	Applicant PSA Comment 12: "The route that hazmat vendors are to use is described incorrectly in the condition. The route is described in Section 8.10.2.4 of the AFC."	Same as PSA	This comment was not addressed in the FSA, and the route is still incorrectly described.
6.	4.5-21	N/A	N/A	LAND-2 requires the project owner to comply with the conditions of approval (listed) adopted by Colusa County Board of Supervisors on September 18, 2007. However, subsection b) of this condition suggests that the "southern" 50-acre portion of the subject property will remain zoned "Exclusive Agriculture."	It is correct that 50 acres of the 100-acre subject property will remain "Exclusive Agriculture," while the remaining 50 acres will be rezoned "Industrial." However, the 50 acres to be rezoned "Industrial" are located at the central portion of the 100-acre property, not at the southern portion of the property.

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
7.	4.8-15	SOCIO-1: The project owner and its contractors and sub-contractors shall procure materials and supplies within Colusa and Glenn Counties unless the materials or supplies are not available.	Applicant PSA Comment 19: “The commitment should include a stipulation that the material can be supplied of comparable quality, price and delivery in accordance with the project requirements. The Applicant requests changing the condition to be subject to <u>availability and competitive pricing.</u> ”	Same as PSA	This comment was not addressed in the FSA. This condition, as currently stated in the FSA, unduly restricts procurement to local materials and supplies without consideration of pricing. The Applicant requests that the previous comment on the PSA to add “and competitive pricing” to the condition be reconsidered. This change to the condition will make it consistent with a similar obligation imposed on the Applicant in the Development Agreement entered into between the Applicant and the County of Colusa, which was approved by the Board of Supervisors on October 2, 2007.
8.	4.9-16	N/A	N/A	SOIL & WATER-4 was added, which requires the project owner to use raw surface water provided by the Glenn Colusa Irrigation District (GCID) for all construction activities associated with the project and that a Construction Water Agreement issued by the GCID for the sale and delivery of construction water shall be provided.	This condition requires a separate Construction Water Agreement with GCID. However, sale and delivery of construction water is already addressed in the existing Conveyance Agreement with GCID. Article 6 of the Conveyance Agreement covers construction water with tariff based rates and terms to be applied. Therefore, Applicant requests that the requirement for a separate Construction Agreement with GCID be removed. Rather, Applicant will provide rates and terms to the CEC as defined by GCID at the time when construction water is needed.

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
9.	4.10-18	TRANS-1 requires that the Teresa Creek Bridge and Glenn-Colusa Canal Bridge replacements be completed "prior to construction"	Applicant commented on this condition during the PSA Workshop as follows: The bridge replacements are only required for heavy haul access, which would not occur months after initiation of project construction. The Applicant requests that "prior to construction" be changed to "prior to heavy haul transport"	TRANS-1 was amended to require that the project owner secure all necessary encroachment permits and easements to complete the bridge replacements, but the condition still requires that the bridges be completed "prior to construction."	TRANS-1, as written in the FSA, delays project construction significantly, until late 2008, with resulting delays in the operational start date. These delays are due to the condition that plant construction not be started until the bridge replacement work is completed. The bridge replacements are only required to accommodate heavy haul access, which is not needed until several months after construction of the plant has begun. Since the bridge replacement work must be done in the May 1 – October 1 time window to avoid impacts to giant garter snake and requires other permits, the bridge work can be planned and permitted concurrently with other plant construction that does not require heavy haul access. The Applicant requests that the previous comment on the PSA to change the text from "prior to construction" to "prior to heavy haul transport" be reconsidered.
10.	4.10-19	N/A	N/A	TRANS-3 requires that a plan for mitigating construction impacts on Delevan Road, McDermott Road, and Dirks Road be submitted to the Colusa County Public Works and Planning Department, and the CPM, at least 90 days prior to the start of site mobilization.	Applicant requests that the 90-day requirement be reduced to 30 days prior to start of mobilization.

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
11.	4.12-28	VIS-1: The project owner shall treat the surfaces of all project structures and buildings visible to the public...	<p>Applicant PSA Comment 21: “The verification requires that the owner provide more specificity regarding surface treatment maintenance in the Annual Compliance Report. On Roseville Energy Park, the project owner is simply required to provide a status report on treatment maintenance. For the CGS plant, PG&E will be required to report on the 1) condition of the surfaces of all structures and buildings at the end of the reporting year, 2) maintenance activities that occurred during the reporting year, and 3) the schedule of maintenance activities for the next year. While this is not a huge burden, it is more onerous than what has been required on past CEC projects.”</p>	Same as PSA	This comment was not adequately addressed in the FSA. The Applicant requests that the previous comments on the PSA be reconsidered.

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
12.	4.12-30	VIS-3: This condition pertains to landscape screening. The condition requires that the landscaping (trees) be installed during the first optimal planting season following site mobilization.	Applicant PSA Comment 23: "It is recognized that the CEC wants to get the trees planted as early as possible to facilitate power plant screening. However, there is a strong likelihood the trees could be damaged during construction activities. An alternative would be to require the Applicant to plant larger sized trees (15 gallons) after commercial operation."	Same as PSA	This comment was not addressed in the FSA. The Applicant requests that the previous comment on the PSA be reconsidered.
13.	4.14-16	N/A	See FSA Comment Number 4 above for previous Applicant comment regarding the Maxwell Fire Department.	Addition of WS-6, Condition of Certification, which states: "The project owner shall provide \$230,000 to the Maxwell Fire Department annually to ensure adequacy of fire protection services. The project owner can request that the annual payment be reduced by the amount of revenue received by the Department as a result of transfer of local tax revenue resulting from the project."	The FSA does not include, and the MFPD has never provided, any analysis in support of the proposition that the requested additional funds are needed to effectively respond to potential incidents at the facility. As far as the Applicant is aware, the amount has no relationship to additional demands that might be placed on the MFPD as a result of the project. The Applicant engaged the services of an expert chosen by the MFPD to assess the potential impacts of the project on the MFPD. That expert, The McMullen Company, Inc., issued its report and recommendations on April 11, 2007. The report has been docketed. While the report did not include a cost estimate for implementing the recommendations contained therein, the cost is

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					<p>unquestionably far below the \$230,000 per year figure sought by the MFPD.</p> <p>In the absence of any information to support the amount of funding requested, the Applicant does not believe that it is appropriate for the staff to propose, or the Commission to impose, a specific mitigation amount. Furthermore, the Applicant believes that the burden is on MFPD to provide support for its requested funding, which it has failed to do.</p> <p>Therefore, the Applicant is prepared to engage in additional discussions with MFPD and CEC staff, including the commissioning of an additional study, if necessary, to determine the appropriate amount necessary to mitigate any potential impacts on the MFPD. The Applicant therefore recommends that WS-6 Condition of Certification be revised to read as follows:</p> <p><i>"Prior to construction of structures on the project site, the project owner and the Maxwell Fire Protection District (MFPD), in consultation with third party experts retained at project owner's expense, if necessary, shall mutually determine the amount of money to be provided to the MFPD to ensure adequacy of fire protection services."</i></p>

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14.	5.1-6	N/A	N/A	<p>GEN-1 requires compliance with the 2001 California Building Standards Code (CBSC) or the CBSC in effect at the time initial design plans are submitted to the CBO for review and approval (2007 CBSC).</p>	<p>While the Applicant appreciates Staff's addition of the exception that GE equipment would not be required to comply with the 2007 CBSC, the version of GEN-1 contained in the Presiding Member's Proposed Decision recently published for the Panoche Energy Center more clearly captures the exception for GE equipment, and the Applicant therefore requests it be included in the Decision for the CGS as follows:</p> <p><i>"GEN-1 The project owner shall design, construct, and inspect the project in accordance with the 2007 California Building Standards Code (CBSC) (also known as Title 24, California Code of Regulations), which encompasses the California Building Code (CBC), California Building Standards Administrative Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Fire Code, California Code for Building Conservation, California Reference Standards Code, and all other applicable engineering LORS in effect at the time initial design plans are submitted to the CBO for review and approval, except that the CBSC applicable to the General Electric supplied equipment shall be the 2001 CBSC. (The CBSC in effect is that edition that has been adopted by the California Building Standards</i></p>

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
					<p>Commission and published at least 180 days previously.) The project owner shall ensure that all the provisions of the above applicable codes be enforced during any construction, addition, alteration, moving, demolition, repair, or maintenance of the completed facility [2007 CBC, Section 101.3, Scope]. All transmission facilities (lines, switchyards, switching stations and substations) are handled in Conditions of Certification in the TRANSMISSION SYSTEM ENGINEERING section of this document.</p> <p>In the event that the initial engineering designs are submitted to the CBO when a successor to the 2007 CBSC is in effect, the 2007 CBSC provisions identified herein shall be replaced with the applicable successor provisions. Where, in any specific case, different sections of the code specify different materials, methods of construction or other requirements, the most restrictive shall govern.</p> <p>Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. The project owner shall ensure that all contracts with contractors, subcontractors, and suppliers shall clearly specify that all work performed and materials supplied on this project comply with the codes listed above.</p>

FSA Comment Number	FSA Page Number	PSA Statement (if applicable)	Previous Applicant Comment on the PSA (if applicable)	FSA Statement	Comments to CEC on FSA
					<p>Verification: Within 30 days after receipt of the Certificate of Occupancy, the project owner shall submit to the Compliance Project Manager (CPM) a statement of verification, signed by the responsible design engineer, attesting that all designs, construction, installation, and inspection requirements of the applicable LORS and the Energy Commission's Decision have been met in the area of facility design. The project owner shall provide the CPM a copy of the Certificate of Occupancy within 30 days of receipt from the CBO [2007 CBC, Section 109 - Certificate of Occupancy]. Once the Certificate of Occupancy has been issued, the project owner shall inform the CPM at least 30 days prior to any construction, addition, alteration, moving, demolition, repair, or maintenance to be performed on any portion(s) of the completed facility which may require CBO approval for the purpose of complying with the above stated codes. The CPM will then determine the necessity of CBO approval on the work to be performed."</p>

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

In the Matter of:)	Docket No. 06-AFC-9
)	
Application for Certification,)	ELECTRONIC PROOF OF SERVICE
for the COLUSA GENERATING STATION)	LIST
by E&L Westcoast, LLC)	
)	(revised August 22, 2007)
)	
)	

Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 06-AFC-9
1516 Ninth Street, MS-4
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COLUSA GENERATING STATION PROJECT
CEC Docket No. 06-AFC-9

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COLUSA GENERATING STATION PROJECT
CEC Docket No. 06-AFC-9

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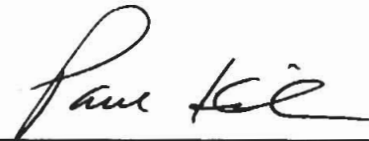
DECLARATION OF SERVICE

I, Paul Kihm, declare that on December 14, 2007, I deposited a copy of the attached:

COMMENTS ON THE FINAL STAFF ASSESSMENT

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that 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. Executed on December 14, 2007, at Costa Mesa, California.



Paul Kihm