

ATTORNEYS AT LAW

October 31, 2011

MELISSA A. FOSTER
Direct (916) 319-4673
maloster@stoel.com

VIA EMAIL

Mr. Eric Solorio, Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

DOCKET	
11-AFC-1	
DATE	<u>OCT 31 2011</u>
RECD.	<u>OCT 31 2011</u>

Re: **Pio Pico Energy Center Project (11-AFC-01)**
Biological Resources: Responses to Ann Crisp's September 15, 2011 Inquiry

Dear Mr. Solorio:

On behalf of Applicant Pio Pico Energy Center, LLC, please find enclosed herein Applicant's responses to Ann Crisp's September 15, 2011 informal data requests related to biological resources.

Should you have any questions relating to this response, please do not hesitate to contact Maggie Fitzgerald or me.

Very truly yours,



Melissa A. Foster

MAF:jmw

cc: See Proof of Service

Informal data requests from Ann Crisp on September 15, 2011:

In response to the applicant's letter, staff would like additional information to support the list of mitigation banks submitted via letter dated September 13, 2011. It is staff's understanding, via both the Supplemental Response to Data Requests B10-29 and B10-30 and the workshop, that the applicant would be researching options to implement weed abatement activities with private land owners, mitigation banks, and/or public lands. During the workshop staff indicated that preference would be given to lands that were first within the zone of impact and then to lands further away. In order to analyze whether there are feasible options to implement weed abatement and include the analysis in the Preliminary Staff Assessment, staff requests the following additional information:

1. Clarify if the applicant is proposing purchasing credits at the banks listed or providing funds to support weed abatement and other management activities associated with weed abatement. **The list of Potential Options provided to the CEC on September 13, 2011 identifies banks in the area of the proposed project. Specifically, the Project Owner will provide, support or establish a Habitat Maintenance Program (HMP) that provides periodic nitrogen deposition related weed abatement on at least 50 acres of off-site habitat within the region of the project site.**
2. If the applicant is still proposing funding a weed abatement program, staff requests information as to whether each of these mitigation banks would accept funds to support weed abatement, currently have a weed abatement program, or would be willing to create a weed abatement program with funding. **As set forth in proposed Condition of Certification BIO-XX set forth below, the Project Owner will provide, support or establish a Habitat Maintenance Program (HMP) that provides periodic nitrogen deposition related weed abatement on at least 50 acres of off-site habitat within the region of the project site.**
3. Provide further information on the location of each bank (provide a map) and which sensitive species to be impacted (Quino checkerspot butterfly, California gnatcatcher, and Otay tarplant) occur at each mitigation bank; Center for Natural Land Management has multiple preserves in San Diego County, so please specify which locations would be appropriate. **Please review the table below and Exhibit 1 for details regarding the options and locations of programs that may be available.**
4. Provide information on whether any private land owners or public land managers were contacted about funding a weed abatement program and the results of inquiry. **The table below reflects the totality of the entities contacted regarding the Habitat Maintenance Program.**
5. Provide an update on the status of the EPA Section 7 consultation and status of the Biological Assessment. **Applicant's consultant submitted a letter to the USEWS on September 14, 2011 stating Applicant's position regarding Section 7. A copy of that letter was docketed on September 19, 2011.**

Potential Options		
Location	Contact	Description/Notes
Crestridge Conservation Bank	Tammy Lawhead 619-683-5544	Non-native annual grassland and southern-mixed chaparral, coastal sage scrub. The coastal scrub habitat is

		suitable for Quino checkerspot butterfly, California gnatcatcher, and Otay tarplant Approximately 25 miles from the Project site.
Deer Canyon Conservation Bank	Jim Carter, Environmental Lands Solutions 760-942-2397	Service area: Central coast, within MSCP. Southern maritime chaparral, coastal sage scrub and chamise chaparral habitats. The coastal scrub habitat is suitable for Quino checkerspot butterfly, California gnatcatcher, and Otay tarplant Approximately 30 miles from the Project site.
Red Mountain Bank	Marc Thompson 619-299-2525	Coastal Sage Scrub and grassland near Fallbrook. The coastal scrub habitat is suitable for Quino checkerspot butterfly, California gnatcatcher, and Otay tarplant Approximately 55 miles from the Project site.
San Diego National Wildlife Refuge	John Martin 619-468-9245	Coastal sage and chaparral habitats. Adjacent to the Project site. The coastal scrub habitat is suitable for Quino checkerspot butterfly, California gnatcatcher, and Otay tarplant

Proposed Condition BIO-XX

BIO-XX Habitat Maintenance Program

Project Owner shall provide, support or establish a Habitat Maintenance Program (HMP) that provides periodic nitrogen deposition related weed abatement on at least 50 acres of off-site habitat within the region of the project site. The requirement of providing an HMP can be accomplished by providing sufficient funding to an organization approved by the CPM or by establishing a program as described below.

If Project Owner chooses to establish an HMP, the Project Owner shall submit a draft HMP plan to the CPM for review and approval. The HMP plan shall include the following:

- Description of the organizational structure of the program
- Demonstration of how funds will be used to accomplish 50 acres of periodic nitrogen deposition related weed abatement
- Explanation of how the location for weed abatement will be determined
- Provisions for annual reports of results of program
- Explanation of how initial funding will be determined and how any needed additional funds will be calculated.

Verification:

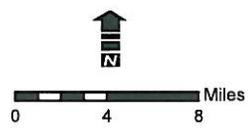
If funding an existing habitat management program, then at least 60 days prior to the start of any project-related ground disturbance project owner shall identify the habitat management program that will accept Project Owner's monetary contribution and also shall identify and explain the necessary amount of funding.

If creating an HMP, then at least 60 days prior to the start of any project-related ground disturbance Project Owner shall submit a draft HMP to the CPM for review and approval. Once approved by the CPM, Project Owner shall comply with the requirements of the HMP.



Legend

-  Mitigation Bank
-  Project Location



**EXHIBIT 1
MITIGATION BANKS**

**PIO PICO
ENERGY CENTER**

PROJECT NO.: 29874827
DATE: OCTOBER 2011



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 — WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE *PIO PICO ENERGY CENTER, LLC*

Docket No. 11-AFC-1
PROOF OF SERVICE
(Revised 5/15/11)

Pio Pico Energy Center, LLC

**Letter to Eric Solorio, Siting Project Manager, California Energy Commission,
dated October 31, 2011 re Biological Resources:**

Applicant's Responses to Ann Crisp's September 15, 2011 Inquiry

APPLICANT

Gary Chandler, President
Pio Pico Energy Center
P.O. Box 95592
South Jordan, UT 84095
grchandler@apexpowernroup.com

David Jenkins, Project Manager
Pio Pico Energy Center, LLC
1293 E. Jessup Way
Mooresville, IN 46158
djenkinsaapexpowergroup.com

APPLICANT'S CONSULTANTS

Maggie Fitzgerald, Project Manager
URS Corporation
2020 East 1st Street, Suite 400
Santa Ana, CA 92705
magpie.fitzcerald@urscoro.com

COUNSEL FOR APPLICANT

John A. McKinsey
Melissa A. Foster
Stoel Rives, LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
iamckinsey@stoel.com
mafoster@stoel.com

INTERESTED AGENCIES

California ISO
E-mail Preferred
e-recipient@caiso.com

ENERGY COMMISSION

CARLA PETERMAN
Commissioner and Presiding Member
cpeterma@energy.state.ca.us

Jim Bartridge
Adviser to Commissioner Peterman
jbartrid@energy.state.ca.us

KAREN DOUGLAS
Commissioner and Associate
Member
kldouglar.energy.state.ca.us

Galen Lemei
Adviser to Commissioner Douglas
g.lemei@energy.state.ca.us

Raoul Renaud
Hearing Officer
renaud@energy.state.ca.us

Eric Solorio
Siting Project Manager
esolorioR.energic.state.ca.us

Kevin W. Bell
Staff Counsel
kwbell@energy.state.ca.us

Jennifer Jennings
Public Adviser
E-mail preferred
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on October 31, 2011, I deposited copies of the aforementioned document and, if applicable, a disc containing the aforementioned document in the United States mail at 500 Capitol Mall, Suite 1600, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

AND/OR

Transmission via electronic mail, personal delivery and first class U.S. mail were 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.


/s/ _____
Judith M. Warmuth