



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
 COMMISSION OF THE STATE OF CALIFORNIA
 1516 NINTH STREET, SACRAMENTO, CA 95814
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California Energy Commssion DOCKETED 11-AFC-1
TN # 67065 SEP 10 2012

**APPLICATION FOR CERTIFICATION FOR THE
 PIO PICO ENERGY CENTER PROJECT**

Docket No. 11-AFC-01

ERRATA TO THE PRESIDING MEMBER’S PROPOSED DECISION

After reviewing the comments submitted by the parties and the public by the September 5, 2012 deadline for comments, we recommend the following changes¹ to the August 6, 2012, Presiding Member’s Proposed Decision (PMPD):

INTRODUCTION

- 1. Page 1-1, third paragraph, first sentence, replace “gross” with “net.”**
- 2. Page 1-7, first paragraph, add the following:**

In comments on the PMPD submitted September 5, 2012, Rob Simpson stated that CEC had failed to provide notice of these proceedings to affected persons in the nearby prison facilities and Mexico. As indicated above, CEC has provided all legally-required notices of the project, and has conducted community outreach throughout these proceedings.

PROJECT DESCRIPTION

- 3. Page 2-7, first paragraph, change as follows:**

The PPEC will require up to ~~379~~ **314** acre-feet of water per year for operations. The proposed supplier of the water is the Otay Water District (the “District”).The District is working to complete a planned expansion of its regional recycled water delivery system. ~~(Id.)~~ **(Exs. 48; 200, p. 4.9-11.)**

¹ Where text is modified, changes are shown in **bold underline**/~~strikeout~~ (**new text**/~~deleted text~~).

4. Page 2-9, first paragraph, first sentence, change as follows:

As an intermediate load and peaking facility, each CTG will be limited to operate no more than **the equivalent of** 4,000 hr/yr.

5. Page 2-11, Finding of Fact 2, replace “gross” with “net.”

6. Page 2-11, Finding of Fact 3, change as follows:

3. The project includes two **one** transmission line corridors and a new natural gas supply line.

ALTERNATIVES

7. Page 3-10, insert the following paragraphs before the first paragraph:

In comments on the PMPD, Mr. Simpson argued that because the Energy Commission denied the Application for Certification for the Chula Vista Energy Upgrade Project (CVEUP) (07-AFC-04) in 2009, it ought to deny the PPEC AFC. Although Mr. Simpson acknowledges that CEC decisions are not precedential or binding upon us unless so designated—and the CVEUP Decision was not so designated—he overlooks two very significant factors that distinguish that case from this one. First, CVEUP was an upgrade of an existing 45 MW peaker that would have added only 65 MW of peaking capacity to the grid. There was evidence in the CVEUP record demonstrating that rooftop solar in that relatively small amount could feasibly be installed in the near future. Second, because the CVEUP was determined to be in violation of the zoning for the proposed site, the CEC was required to determine whether it should override the zoning conflict because the CVEUP would be required for public convenience and necessity. Thus, it was necessary for CEC to weigh the project’s impacts against the need for the project. Under those circumstances, the project’s relatively small contribution to the grid did not, in the CEC’s judgment, warrant overriding the zoning conflicts.

Neither circumstance exists here. PPEC’s contribution of 300 MW of peaking and load-following capacity to the grid is substantial and not capable of being replaced in the near term by rooftop solar. Nor has our analysis in the Land Use section of this Decision found a zoning or other LORS conflict which would require the CEC to determine whether the public convenience and necessity would warrants overriding a LORS conflict.

In comments submitted September 5, 2012, Mr. Simpson states that “solar is BACT” (best available control technology) and that therefore the PPEC ought to be required to have a solar component. In this section of the Decision, we have discussed generation alternatives, including solar, and concluded that, while important and necessary, solar is not a complete substitute for the project.

TRANSMISSION SYSTEM ENGINEERING

8. *Page 5.4-3, part 2, change the title to “Phase II Interconnection Study.”*
9. *Page 5.4-4, third and fourth paragraphs, add the phrase “under Category B (N-1) conditions” after the word “cases” at the end of each paragraph.*
10. *Page 5.4-8, third paragraph, change as follows:*

Thus, we find that the ~~System Impact Study~~ Phase II Interconnection Study indicates that with the required mitigation in place, the California ISO system ~~the project interconnection~~ will comply with NERC/WECC planning standards.

AIR QUALITY

11. *Page 6.2-4, second bullet, replace “18” with “6.”*
12. *Page 6.2-7, second paragraph, second sentence, change as follows:*

In April, 2010, ~~the~~ U.S. EPA adopted a new one-hour NO₂ standard of 0.100 ppm (188 ug/m³) based upon the 3-year average of the 98th percentile of the daily maximum 1-hour concentration ~~in early 2010.~~

HAZARDOUS MATERIALS MANAGEMENT

13. *Page 6.5-5, first paragraph, add “and Exhibit 48” at the end.*

14. Page 6.5-27, Hazardous Materials Appendix B Table-1, add the following:

ADDITIONAL HAZARDOUS MATERIALS USAGE DURING OPERATION OF EWT SYSTEM						
<u>Material</u>	<u>Hazard Characteristics¹</u>	<u>Purpose</u>	<u>Storage Location</u>	<u>Daily Usage²</u>	<u>Maximum Quantity Stored Onsite</u>	<u>Storage Type</u>
<u>Sodium Bisulfite</u>	<u>Irritant, mildly toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>13 lbs dry</u>	<u>182 lbs dry</u>	<u>Original containers</u>
<u>Soda Ash</u>	<u>Irritant, toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>372 lbs dry</u>	<u>5,208 lbs dry</u>	<u>Original containers</u>
<u>Caustic Soda</u>	<u>Corrosive, reactive</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>463 lbs dry</u>	<u>6,482 lbs dry</u>	<u>Original containers</u>
<u>Hydrochloric Acid</u>	<u>Corrosive, toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>72 lbs dry</u>	<u>1,008 lbs dry</u>	<u>Original containers</u>
<u>Anti-scalant</u>	<u>Irritant, mildly toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>2 lbs dry</u>	<u>28 lbs dry</u>	<u>Original containers</u>
<u>Citric Acid</u>	<u>Irritant, toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>5 lbs dry</u>	<u>70 lbs dry</u>	<u>Original containers</u>
<u>NA-EDTA</u>	<u>Irritant, toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>1.5 lbs dry</u>	<u>21 lbs dry</u>	<u>Original containers</u>
<u>RO and Membrane Cleaners</u>	<u>Irritant, toxic</u>	<u>Wastewater Treatment</u>	<u>Wastewater Treatment Building</u>	<u>4.5 lbs dry</u>	<u>63 lbs dry</u>	<u>Original containers</u>

(Exs. 48; 200, p. 4.4-9.)

BIOLOGICAL RESOURCES

15. Page 7.1-21, first partial paragraph, add the following sentence at the end:

In June, 2012 the Department of the Army determined that on-site potential waters of the U.S. will not be permanently or temporarily impacted due to the project.
(Exs. 115; 116.)

16. Pages 7.1-45 and 7.1-46, Condition of Certification BIO-8, item 3, last sentence, change as follows:

Nest locations shall be mapped using GPS technology and submitted, along with a weekly report stating the survey results, to the CPM **on a weekly basis** in the Monthly Compliance Reports.

17. Page 7.1-48, Condition of Certification BIO-10, item 1, change as follows:

A qualified biologist, approved by the CPM, shall conduct a pre-grading survey no more than 30 days before **pre-construction site mobilization, including any** initial brushing, clearing, grubbing, or grading of the project site, regardless of the time of year.

18. Page 7.1-48, Condition of Certification BIO-10, item 2, change “1995” to “2012.”

19. Page 7.1-48, Condition of Certification BIO-10, delete item 3.

20. Page 7.1-48, Condition of Certification BIO-10, Verification, change as follows:

Verification: All avoidance and minimization measures related to burrowing owl shall be included in the BRMIMP and implemented. Implementation of the measures shall be reported in the Monthly Compliance Reports by the Designated Biologist. The project owner shall immediately report the results of the pre-grading survey to the CPM and the County of San Diego Mitigation Monitoring Coordinator, CDFG and USFWS prior to grading and must be provided in writing. The written and signed pre-grading survey report shall be submitted within 14 days of the survey. If passive relocation or burrow closures are required **an eviction plan with the proposed methods and locations of** a report summarizing owl exclusions and burrow closures shall be submitted to **and approved by** the CPM, **in consultation with** the County of San Diego Department of Planning and Land Use (DPLU), CDFG, and USFWS **prior to any work that may impact burrows. A report summarizing owl exclusion and burrow closures shall be submitted** within seven days of completing exclusions and burrow closures. If a resource management plan is required, the project owner shall submit a final management plan to the CPM that has been reviewed and approved by the CPM, in consultation with the County of San Diego DPLU, USFWS, CDFG and the land-owning city department (city of San Diego), if applicable, at least 60 days prior to the start of project construction.

SOIL AND WATER RESOURCES

21. Page 7.2-27, Condition of Certification SOIL&WATER-7, verification, second paragraph, change 60 to 30.

CULTURAL RESOURCES

22. Page 7.3-9, third paragraph, final sentence, delete and replace with the following:

As of May, 2012, Staff reports it has received limited response from two local Native American representatives regarding the Energy Commission’s requests for input. The responses concern tribal requests for Native American monitoring. (Ex. 200, pp. 4.3-27 – 4.3-29.) Implementation of Conditions of Certification **CUL-3** and **CUL-5** would accommodate those tribal requests.

LAND USE

23. Page 8.1-6, second paragraph, add the following sentence at the end:

The project site and laydown area fall within the “Heavy Industrial” land use designation of the SP. (Ex. 200, p. 4.5-7.)

24. Page 8.1-8, third paragraph, last sentence, delete “and the EMDF.”

25. Page 8.1-10, fifth paragraph, change “city’s” to “county’s.”

26. Page 8.1-11, second paragraph, second sentence, change as follows:

The power plant and laydown area would be located entirely on private property, on a 9.99-acre site. **The construction laydown area, 6 acres of a 9.68-acre parcel, would be located immediately south of and adjacent to the proposed project site. (Ex. 200, p. 4.5-4.)**

27. Page 8.1-12, first paragraph, insert “Multiple Species Conservation Plan” before “MSCP,” which should be put into parentheses.

28. Page 8.1-17, Finding of Fact 4, delete the phrase “With implementation of Conditions of Certification LAND-1 and LAND-2.”

SOCIOECONOMICS

29. Delete the phrase “AND ENVIRONMENTAL JUSTICE” from the title of the section.

30. Page 8.3-1, first paragraph, first sentence, change as follows:

This topic reviews pertinent demographic information within both a one-mile and six-mile radius of the project site and evaluates the effects of project-related population changes on local schools, **emergency** medical and fire protection service, public utilities and other public services parks, as well as the fiscal and physical capabilities of local government to meet those needs.

31. Page 8.3-5, after the first paragraph, insert the following paragraph:

The RFPD, with the cooperation of the San Diego County Sheriff Department, implemented a special tax district (Community Facilities District number 09-1) to fund the planned new joint fire/sheriff facility. The project property is within the

boundaries of this tax district and will therefore be subject to the levy of special taxes once it is developed. (Ex. 200, p. 4.8-15.)

32. Page 8.3-6, first partial paragraph, add the following sentence before the citation at the end:

SUHSD provides seventh through twelfth grade education plus adult education and had an enrollment of 41, 26 students for the 2010/2011 school year.

33. Page 8.3-10, second paragraph, second sentence, change as follows:

However, since the record shows both that the project would not cause significant socioeconomic impacts on local housing, schools, police, emergency medical services, and parks and that the project's implementation of the conditions of certification in this Decision will mitigate all potential health and safety and environmental impacts to levels below significance for any affected population, we conclude that there are no disproportionate impacts on environmental justice populations.

34. Page 8.3-11, first partial paragraph, insert the word "emergency" before "medical."

35. Page 8.3-11, second paragraph, insert the word "medical" after "emergency,"

36. Page 8.3-13, Finding of Fact 2, change as follows:

2. Construction workers ~~and permanent employees~~ who live within a two-hour commute to the site and permanent employees who live within a one-hour commute to the site are not likely to relocate to the project area.

37. Page 8.3-13, Finding of Fact 4, change as follows:

4. The project is not likely to have a significant adverse effect upon local employment, housing, schools, ~~utilities,~~ recreational parks, emergency medical services ~~resources or fire and police protection.~~

38. Page 8.3-14, insert Condition of Certification SOCIO-2 as follows:

SOCIO-2 The project owner shall pay the one-time statutory school facility development fees to the San Ysidro Elementary School District and Sweetwater Union High School District as required by Education Code section 17620.

Verification: At least 30 days prior to the start of project construction, the project owner shall provide to the Compliance Project Manager (CPM) proof of

payment to the San Ysidro Elementary School District and to the Sweetwater Union High School District of the statutory development fee.

VISUAL RESOURCES

39. Page 8.5-4, part 4, Scenic Resources, delete and replace with the following:

For the purposes of this evaluation,” scenic resources” include a unique water feature (waterfall, transitional water, part of a stream or river, estuary); a unique physical geological terrain feature (rock masses, outcroppings, layers or spires); a tree having a unique/historical importance to a community (a tree linked to a famous event or person, an ancient, old growth tree); historic building; or other scenically important physical features, particularly if located within a designated federal scenic byway or state scenic corridor. Neither the Applicant nor Staff identified scenic resources in the project vicinity. No scenic resources exist in the KOP1, KOP 2, KOP 3, and KOP 4 viewsheds. (Id.)

40. Page 8.5-22, Finding of Fact 7, add the words “and glare” between “lighting” and “impacts.”

Dated: September 10, 2012 in Sacramento, California.

Original Signed By: _____

CARLA PETERMAN
Commissioner and Presiding Member
Pio Pico Energy Center AFC Committee

Original Signed By: _____

KAREN DOUGLAS
Commissioner and Associate Member
Pio Pico Energy Center AFC Committee



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**Docket No. 11-AFC-01
PROOF OF SERVICE
(Revised 8/16/2012)**

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DECLARATION OF SERVICE

I, Maggie Read, declare that on, September 10, 2012, I served and filed a copy of the attached ERRATA TO THE RESIDING MEMBER'S PROPOSED DECISION, dated September 10, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at:

www.energy.ca.gov/sitingcases/piopico/index.html.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

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OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original Signed By:

Maggie Read
Hearing Adviser's Office