

Memorandum

Date: July 3, 2008
 Telephone: (916) 654-3836

To: Commissioner Jeffrey D. Byron, Presiding Member
 Commissioner Arthur H. Rosenfeld, Associate Member

Michelle Woods

From: California Energy Commission – Michelle Woods
 1516 Ninth Street
 Sacramento, CA 95814-5512
 Project Manager

DOCKET	
08-AFC-1	
DATE	JUL 03 2008
RECD.	JUL 03 2008

Subject: **AVENAL ENERGY PROJECT (08-AFC-1) STATUS REPORT 1**

Following is Status Report #1 for the proposed Avenal Energy project.

Current Issues and Activities for Resolution

Staff has encountered the following issues during the discovery and analysis phases of the Application for Certification (AFC) for the proposed Avenal Energy project:

- On June 10, 2008 Avenal Power Center LLC (applicant), filed objections to data requests #16 (modifications made to the Gates Substation), #53 (use of neighboring agricultural wells as a back-up water supply), and #66, 67, and 68 (environmental assessment of demolition and disposal of farm office and storage area). On June 20, 2008 the applicant provided responses to the remaining data requests. After reviewing information exchanged at the July 1, 2008 Data Response and Issues Resolution Workshop and supplemental information provided by the applicant, staff has determined that the following data requests require further action:
 - Data Requests #5 and #6 (Air Quality): Staff will consult with the local air quality district regarding emission rates during excursions and rapid load changes.
 - Data Request #7 (Biological Resources): Staff will continue discussions with the California Department of Fish and Game and the United States Fish and Wildlife Service regarding the placement of setbacks and fences.
 - Data Request #10 (Biological Resources): Other than burrowing owls, the applicant did not provide a description of impact avoidance measures for potentially impacted species, however, applicant understands that staff's recommended mitigation measures will include avoidance measures for other listed species.
 - Data Request #25 (Soils and Water Resources): At the July 1, 2008 workshop the applicant agreed to provide a 100 year flood boundary grading plan.
 - Data Request #53 (Soils and Water Resources): Staff will contact Westlands Water District to confirm whether the wells are available for use by the applicant (see Agency Comments below for additional information).

PROOF OF SERVICE (REVISED 7/1/08) FILED WITH
 ORIGINAL MAILED FROM SACRAMENTO ON 7/3/08

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- Data Request #56, #57, and #58 (Transmissions System Engineering): Staff will review the system impact study when it becomes available. This is a critical piece of information which staff will need to determine the project’s potential impact on downstream transmission facilities and the related environmental impacts if any downstream facilities require upgrading. Staff will need this document to complete the Final Staff Assessment.
- Data Requests #66, #67, and #68 (Waste Management): The applicant has advised staff that the structures referred to in these data requests will not be demolished. However, the Applicant has not provided any assessment of the soils that might be disturbed during construction of the transmission and natural gas lines. Staff will need such information in order to complete its analysis of potential project impacts and such information has been provided in previous projects. Therefore, is currently considering how best to obtain this information.

Agency Comments

- Westlands Water District submitted comments, dated May 29, 2008, regarding the use of well and groundwater for non-agricultural purposes and the need for the applicant to obtain Westland’s approval before identifying well water as a back-up water supply. At the July 1 Data Response and Issues Resolution Workshop the applicant indicated that Westlands has not responded to its request for documentation supporting its contention that Westlands has ownership of the wells and that its Board of Directors must approve any use of the water for the power plant. Staff will contact Westlands to request documentation confirming the ownership of the well(s).
- The California Department of Fish and Game submitted comments, dated May 27, 2008, regarding potential mitigation measures for the loss of Swainson’s hawk and San Joaquin kit fox habitat, and issues related to the disturbance of burrowing owls and tri-colored blackbirds.

The California Department of Conservation submitted written comments, dated April 4, 2008, requesting an analysis of the proposed impact of Avenal Energy on agricultural land, including lands under Williamson Act contract..

Schedule

Other than the need for receipt of the data requests identified above, no other issues are anticipated to adversely impact the Siting Committee’s proposed schedule. The following table summarizes the current committee schedule:

Avenal Energy Siting Committee Schedule

Date	Event
April 16, 2008	AFC data adequate

May 23, 2008	Data Request #1
June 20, 2008	Applicant files response to Data Request #1
July 1, 2008	Data Response and Issue Resolution Workshop
July 3, 2008	Status Report #1
August 14, 2008	Local, State, and Federal Agency draft determination, including air district's Preliminary Determination of Compliance (PDOC) filed.
August 30, 2008	Status Report #2
September 15, 2008	Preliminary Staff Analysis (PSA)
October 6, 2008	PSA Workshop
October 13, 2008	Local, State, and Federal Agency final determinations filed.
October 30, 2008	Status Report #3
November 12, 2008	Final Staff Assessment (FSA)
TBD	Pre-hearing conference
TBD	Evidentiary hearings
TBD	Presiding Member's Proposed Decision issued for 30-day comment period.
TBD	Presiding Member's Proposed Decision committee conference.
TBD	Commission Adoption Hearing

Shaded items have already occurred.



**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 AVENAL ENERGY PROJECT**

**Docket No. 08-AFC-1
PROOF OF SERVICE
(revised 7/1/2008)**

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-9
1516 Ninth Street, MS-14
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Jim Rexroad, Project Manager
Avenal Energy Center, LLC
500 Dallas Street, Level 31
Houston, TX 77002 USA
Jim.Rexroad@macquarie.com

Tracey Gilliland
Avenal Power Center, LLC
500 Dallas Street, Level 31
Houston TX 77002
Tracey.Gilliland@macquarie.com

APPLICANT CONSULTANT

Joe Stenger, Project Director
TRC Companies
2666 Rodman Drive
Los Osos, CA 93402
jstenger@trcsolutions.com

COUNSEL FOR APPLICANT

Jane E. Luckhardt
DOWNEY BRAND
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

INTERESTED AGENCIES

CA Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630

INTERVENORS

Loulena A. Miles
Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
mdjoseph@adamsbroadwell.com
lmiles@adamsbroadwell.com

John Wilson
Advisor to Commissioner Rosenfeld
jwilson@energy.state.ca.us

Gary Fay
Hearing Officer
gfay@energy.state.ca.us

***Michelle Woods**
Project Manager
mwoods@energy.state.ca.us

ENERGY COMMISSION

Jeffrey D. Byron
Commissioner and Presiding Member
jbyron@energy.state.ca.us

Lisa DeCarlo
Staff Counsel
ldecarlo@energy.state.ca.us

Arthur Rosenfeld
Commissioner and Associate Member
arosenfe@energy.state.ca.us

Public Adviser's Office
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Mineka Foggie, declare that on July 3, 2008, I deposited copies of the attached Avenal Energy Project (08-AFC-1) Status Report #1 in the United States mail at Sacramento, CA 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.


Mineka Foggie