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December 10, 2009

California Energy Commission
Docket Unit
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: **NCPA's COMMENTS ON THE STAFF ASSESSMENT
DOCKET NO. (08-AFC-10)**

Enclosed for filing with the California Energy Commission is the original of the **NCPA's COMMENTS ON THE STAFF ASSESSMENT**, for the Lodi Energy Center Docket No.(08-AFC-10).

Sincerely,



Ashley Y Garner

Scott A. Galati
Robert A. Gladden
GALATIBLEK, LLP
455 Capitol Mall, Suite 350
Sacramento, CA 95814
(916) 441-6575

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

DOCKET NO. 08-AFC-10

Application for Certification for the
LODI ENERGY CENTER

**NCPA's COMMENTS ON THE STAFF
ASSESSMENT**

The Northern California Power Agency (NCPA) hereby submits their comments on the Staff Assessment (SA) published on November 30, 2009. In preparation for the SA workshop on December 14, 2009, NCPA offers their comments ahead of the Workshop so that the parties can be the most productive in light of the modified scheduling order. In these comments, NCPA provides proposed resolution of issues to Staff for its consideration.

Suggested additions are shown in **bold underline** and suggested deletions are shown in ~~strikethrough~~.

For clerical correction and ease to Staff, we are suggesting the following global corrections to descriptions of the various components of the project that are repeated throughout the SA. These corrections are not changes to the project, but reflect areas where the descriptions do not reflect supplemental information already provided to the CEC in the form of data responses or official Supplements:

- The MW's attributed to the LEC should be **296MW** (replacing varying amounts within the SA).
- The gas-line route reference of 2.5 miles should be changed to **2.7 miles.**
- The length of the proposed transmission line should be changed from 500 feet to approximately **1100 feet.**

- Construction and laydown should be denoted as **four areas** instead of four parcels.
- Any discussion of the transmission structures required should reflect that there will be **five monopole towers that are 73 feet tall and one turning pole no more than 73 feet tall.**
- The Staff Assessment references that recycled water will be provided through interconnection to an existing 48-inch pipeline. This is not accurate. **The recycled water will be provided by a new pipeline that will be located immediately adjacent to the existing pipeline serving the STIG.** Any references to the connection to the 48 inch existing recycled water pipeline should be disregarded.
- The Staff Assessment in some locations states the project site is zoned for agricultural uses. **The accurate zoning is Public and Community Facilities** for the project site and the surrounding land uses are zoned for agricultural uses.
- **Since the time of filing of the AFC, the SJCOG revised its Airport Land Use Plan which removed any inconsistency with the location of a buried natural gas pipeline** within the Runway Protection and Inner Approach Zones for the Kingdon Airport. Therefore there is no consistency determination necessary and Staff has all of the information it needs to make the finding that the Project does not conflict with the Airport Land Use Plan.
- **The SA does not reflect that the LEC received its Underground Injection Well (UIW) Permit** from the US. EPA on October 16, 2009.
- **The SA does not reflect that there will be no duct firing.**
- **The SA does not reflect that the LEC received its draft Final Determination of Compliance** on November 19, 2009.
- At or around the time of the Workshop, **NCPA will provide a confirmation letter from the DTSC that no further action is required.**
- **All references to White Slough should be to a wildlife area,** not recreational.

PROJECT DESCRIPTION

Page 3-2, Natural Gas Supply Paragraph

NCPA provides the following information concerning the gas line route to reflect modifications in the route contained in Supplement C.

Natural gas would be delivered to the project through a new off-site pipeline (about “2.7” miles long, based on revised route) and run parallel to the 3-mile existing natural gas pipeline (#108) owned by Pacific Gas and Electric which services the existing CTP # 2 plant, which is next door to the LEC project site. **In Supplement C, dated March 2009, the Applicant revised the gas line from that proposed in the AFC. A** portion of the....

Page 3-3, Water Supply Second Paragraph

NCPA requests the water consumption rates be modified to reflect the information contained in Supplement D and strike “fired” as LEC is not duct-fired.

The LEC’s average daily water would be approximately ~~4.23~~ **1.84** million gallons per day (24-hour period), and maximum daily use would be ~~2.2~~ **2.61** million gallons per day during the summer (~~fired~~) conditions. The city of Lodi has provided a will serve letter for the project...

Page 3-3, Wastewater Discharge Paragraph

This paragraph contains a reference to retaining a portion of the project wastewater in an underground tank. The LEC design does not include an underground tank for wastewater. This paragraph also incorrectly describes that the process wastewater and stormwater runoff are being treated in the same system. The process wastewater will be handled in a system that is separate from the stormwater runoff system. Stormwater will be collected in the underground stormwater piping, then routed to a dedicated oil/water separator and finally pumped to the White Slough Water Pollution Control Facility (WPCF).

Page 3-4, First Paragraph

NCPA requests the following modification be made to more accurately reflect the construction access route.

Construction access will generally be from North Cord Road. In addition, the LEC proposes to construct a new temporary access road (approximately 100 feet long) connecting the on-ramp to the southbound lanes of I-5 from eastbound State Route 12 **to the terminus of North Cord Road**. The temporary road would...

AIR QUALITY

Page 4.1-41 and 42, Proposed Condition of Certification AQ-SC5

NCPA is proposing to use primarily Tier 3 engine-equipped construction equipment to minimize the potential air quality impacts of construction activities. We proposed, and the CEC Staff has included, several circumstances under which Tier 3 engines would not be required. We are requesting the inclusion of an additional circumstance under which equipment could be exempted from the Tier 3 requirement, based on a similar condition in the Carlsbad Energy Center Final Staff Assessment:

- AQ-SC5** Diesel-Fueled Engine Control.....
B. All construction diesel engines with a rating of 50 hp or higher...
- 4. Equipment owned by specialty subcontractors may be granted an exemption, for single equipment items on a case-by-case basis, if it can be demonstrated that extreme financial hardship would occur if the specialty subcontractor had to rent replacement equipment, or if it can be demonstrated that a specialized equipment item is not available by rental**

Page 4.1-43, Proposed Condition of Certification AQ-SC7

The following modifications are suggested to reflect the accurate amount of emission reduction credits required by the District FDOC.

- AQ-SC7** The project owner shall provide emission reductions in the form of offsets or emission reduction credits (ERCs) to offset at least ~~142,569~~ **152,655** lb NOx, ~~33,133~~ **33,619** lb VOC, ~~88,117~~ **88,124** lb PM10, and ~~53,848~~ **53,852** lb SOx emissions. The project owner shall demonstrate that the reductions are provided in the form required by the District.

Page 4.1-44, Proposed Condition of Certification AQ-SC9

CEC is staff proposing 1-hour averaging period for the 10 ppm ammonia slip limit while the District's averaging period is 24 hours. Further, the staff is also proposing to establish a 5 ppm ammonia slip (on a 24-hour average basis) limit despite the District finding that 10 ppm limit is adequate. The Staff's basis for this recommendation is that it "follow[s] the Air Resources Board recommendation of 5 ppmvd for ammonia slip, established in the Guidance for Power Plant Siting (ARB 1999)."

NCPA believes that the ARB guidance has been followed in determining the ammonia slip limit of 10 ppm for the project. The ARB guidance states, "Given the *potential for*

health impacts and increases in PM₁₀ and PM_{2.5}, districts should ensure that ammonia emissions are minimized from projects using selective catalytic reduction. Staff *recommends that districts consider* establishing ammonia slip levels below 5 ppmvd at 15 percent oxygen in light of the fact that control equipment vendors have openly guaranteed single-digit levels for ammonia slip.”¹ [Emphasis added.] The guidance therefore provides two reasons a district should consider establishing a lower ammonia slip level: health impacts and particulate matter increases. NCPA’s screening health risk assessment and the SJVAPCD Draft FDOC evaluated ammonia emissions based on a 10 ppm ammonia slip level and determined that health risks from the proposed project were well below levels of concern.^{2,3} Further, the San Joaquin Valley APCD, in which the LEC is located, has determined that ammonia emissions from power plants in the District do not contribute significantly to particulate formation in the valley.⁴ The District has also made a specific determination that a 10 ppm ammonia slip is adequate for this project:

“NOx reductions are very critical to attain ozone standards for the Valley. The District allows slight flexibility in ammonia slip to help achieve the best performance of NOx reduction technology. Furthermore, District performed the health risk analysis for ammonia emissions and has determined that there is no significant health risk to the nearest receptors from these emissions. For these reasons, the District has decided not to lower the proposed ammonia slip.”⁵

Even the CEC staff’s own analysis recognizes that PM formation in the San Joaquin Valley is limited by ambient SOx and NOx and not by the availability of ammonia. “Ammonia is a particulate precursor but not a criteria pollutant. Reactive with sulfur and nitrogen compounds, ammonia is especially abundant in the San Joaquin Valley from natural sources, agricultural sources, and as a byproduct of tailpipe controls on motor vehicles. Ammonia particulate forms more readily with sulfates than with nitrates, and particulate formation in the San Joaquin Valley has been found to be limited by the availability of SOx and NOx in ambient air, rather than the availability of ammonia (SJVAPCD 2008 PM_{2.5} Plan). Offsetting SOx and NOx emissions would both avoid significant secondary PM₁₀/PM_{2.5} impacts and reduce secondary pollutant impacts to a less than significant level.”⁶

¹ CARB’s Guidance for Power Plant Siting and Best Available Control Technology, p. 27, Approved July 22, 1999. Accessed at <http://www.arb.ca.gov/energy/powerpl/guidocfi.pdf> on October 11, 2009. On p. 63, the recommendation is “at or below 5 ppmvd.”

² Supplement D Table 5.1-46R and Appendix 5.1D, revised July 2009.

³ SJVAPCD, Draft Final Determination of Compliance, Attachment F (Health Risk Assessment and Ambient Air Quality Analysis).

⁴ SJVAPCD 2008 PM_{2.5} Plan (see for example Chapter 3, p. 3-8: “Ammonia (NH₃) is abundant throughout the Valley and does not act as a limiting precursor.”)

⁵ SJVAPCD, Draft Final Determination of Compliance, Attachment J (District’s Response To The Comments Received from the Public, Applicant, CEC, CARB and US EPA on the PDOC Issued on April 15, 2009), p. xii.

⁶ SA, p. 4.1-25.

Therefore, the project does not have a potential for health impacts or for increasing regional PM₁₀ and PM_{2.5} due to ammonia slip, and so neither of these factors supports an ammonia slip limit at or below 5 ppmvd.

Finally, we note that a lower ammonia slip limit and resulting shorter catalyst life will result in more frequent catalyst replacement, generating additional waste catalyst material that must be disposed of in landfills.

NCPA therefore requests that Condition of Certification AQ-SC9 be deleted as it is not necessary to ensure compliance with LORS or to mitigate any potential significant environmental impact. While Staff has explained that it is possible to reduce ammonia slip emissions, the relevant question is not whether the Applicant can comply with the condition but rather whether it must. There is no established law, ordinance, regulation or standard applicable to the LEC in the SJVAPD that would require this condition and Staff has failed to identify a significant environmental impact directly related to the ammonia slip emission limit proposed by LEC that would require this condition.

[Reference to this condition in other conditions should be deleted].

Page 4.1-44, Proposed Condition of Certification AQ-SC10

In this condition, CEC staff would require establishing new time limits for startup based on startup performance data collected over the first year of plant operation. This condition is duplicative of AQ-19/AQ-20 and we request that it be deleted.

[Reference to this condition in other conditions should be deleted].

Page 4.1-45, Proposed Condition of Certification AQ-2

NCPA has already submitted the acid rain application and therefore, NCPA requests this condition be deleted. The timing of condition is incompatible with acid rain program requirements in that the acid rain application must be submitted 24 months prior to generation of electricity while the proposed condition would require the application to be submitted after completing commissioning, long after the applicable federal deadline. Finally, this condition is not in the District FDOC.

Page 4.1-48, Proposed Condition of Certification AQ-26

NCPA requests that Staff revise this condition so that it is consistent with the District FDOC. Please correct the CO lb/hr limit during startup to 900 lb/hr per District FDOC. The 500 lb/hr emission rate during startup is expected to be achievable on an annual average basis, but an individual hour may have CO emissions as high as 900 lbs.

- AQ-26** During start-up and shutdown periods, the emissions shall not exceed any of the following limits: NO_x (as NO₂) - 160.00 lb/hr; CO – ~~500.00~~ **900.00** lb/hr; VOC (as methane) - 16.00 lb/hr; PM₁₀ - 9.00 lb/hr; SO_x (as SO₂) - 6.10 lb/hr; or Ammonia (NH₃) - 28.76 lb/hr. [District Rule 2201]

Page 4.1-49, Proposed Condition of Certification AQ-28

NCPA requests the following change to this Condition of Certification remove reference to ambient temperature. We have discussed this with the District and anticipate that they will make this change to the FDOC as well.

- AQ-28** Shutdown is defined as the period of time during which a unit is taken from an operational to a non-operational status **ending when** ~~by allowing it to cool down from its operating temperature to ambient temperature as the fuel supply to the unit is completely turned off.~~ [District Rule 4703, 3.26]

Page 4.1-50, Proposed Conditions of Certification AQ-33, 34 and 36

Please correct CO daily limit to 5,570.3 lb/day, per District permit. The 500 lb/hr emission rate during startup is expected to be achievable on an annual average basis, but NCPA is not able to accept such a limit on a daily basis. Please also correct the NH₃ daily limit and add the language from AQ-36 (below) to this condition so that it is consistent with the FDOC.

- AQ-33** Emissions from the gas turbine system, on days when a startup and/or shutdown occurs, shall not exceed the following limits: NO_x (as NO₂) - 879.7 lb/day; CO – ~~3,170.3~~ **5,570.3** lb/day; VOC - 164.2 lb/day; PM₁₀ - 216.0 lb/day; SO_x (as SO₂) - 146.4 lb/day, or NH₃ - ~~690.2~~ **690.3** lb/day. **Daily emissions will be compiled for a twenty-four hour period starting and ending at twelve-midnight.** [District Rule 2201]

Correct NH₃ daily limit to 690.3 lb/day per District permit. Please also add the language from AQ-36 (below) to this condition so that it is consistent with the FDOC.

- AQ-34** Emissions from the gas turbine system, on days when a startup and/or shutdown does not occur, shall not exceed the following: NO_x (as NO₂) - 373.0 lb/day; CO - 227.0 lb/day; VOC - 91.0 lb/day; PM₁₀ - 216.0 lb/day; SO_x (as SO₂) - 146.4 lb/day, or NH₃ – ~~690.2~~ **690.3** lb/day. **Daily emissions will be compiled for a twenty-four hour period starting and ending at twelve-midnight.** [District Rule 2201]

AQ-36 ~~Delete~~; the language in this proposed condition has been moved to AQ-33 and AQ-34 per District permit.

Page 4.1-50, Proposed Condition of Certification AQ-38

NCPA has not proposed to limit quarterly CO emissions as shown in the SA. Replace these limits with quarterly limits as shown in the District FDOC.

AQ-38 CO emissions from the gas turbine system shall not exceed any of the following: 1st quarter: ~~49,500~~**142,312** lb; 2nd quarter: ~~49,500~~**142,539** lb; 3rd quarter: ~~49,500~~**86,374** lb; 4th quarter: ~~49,500~~**113,660** lb. [District Rule 2201]

Page 4.1-52, Proposed Condition of Certification AQ-49

This condition should be revised to be consistent with District FDOC.

AQ-49 Source testing to determine compliance with the NO_x, CO, VOC, and NH₃ emission rates (lb/hr and ppmvd @ 15% O₂) and PM₁₀ emission rate (lb/hr) shall be conducted **before** ~~within 60 days after~~ the end of commissioning period and at least once every 12 months thereafter. [District Rules 2201 and 4703, 40 CFR 60.4400(a)]

Page 4.1-53, Proposed Condition of Certification AQ-53

NCPA requests this verification be modified to be consistent with the requirements of the condition.

AQ-53 The results of each source test shall be submitted to the District within 60 days thereafter. [District Rule 1081]

Verification: The project owner shall submit the **source test report** ~~proposed protocol for the source tests to both the District and CPM~~ **within 60 days of the completion of the tests** ~~for approval in accordance with condition AQ-46.~~

Pages 4.1-54 and 55, Proposed Conditions of Certification AQ-59 and 60

NCPA requests these conditions be revised to be consistent with the District FDOC

AQ-59 In accordance with 40 CFR Part 60, Appendix F, 5.1, ~~each~~ **the CO** CEMS must be audited at least once each calendar quarter, ~~CEMS audit is not required for the quarters in which both relative accuracy test audit (RATA) and source testing are performed. The District shall be notified prior to completion of the audits.~~ **by conducting cylinder gas audits (CGA) or relative accuracy audits (RAA) CGA or**

RAA may be conducted three of four calendar quarters, but no more than three calendar quarters in succession.

Audit reports shall be submitted along with quarterly compliance reports to the District. [District Rule 1080]

AQ-60 The owner or operator shall perform RATA for NO_x, CO and O₂ as specified by 40 CFR Part 60, Appendix F, 5.1.1, at least once every four calendar quarters. The permittee shall comply with the applicable requirements for quality assurance testing and maintenance of the continuous emission monitor equipment in accordance with the procedures and guidance specified in 40 CFR Part 60, Appendix F. **The NO_x and O₂ CEMS shall be audited in accordance with the applicable requirements of 40 CFR Part 75. Linearity reports shall be submitted along with quarterly compliance reports to the District.** [District Rule 1080]

Page 4.1-55, Missing FDOC Condition

Please include Condition 72 from District permit:

The NO_x and O₂ CEMS shall be audited in accordance with the applicable requirements of 40 CFR Part 75. Linearity reports shall be submitted along with quarterly compliance reports to the District. [District Rule 1080]

Page 4.1-56, Proposed Conditions of Certification AQ-66, 67 and 69

NCPA requests these conditions be revised as follows to be consistent with the District FDOC.

AQ-66 The owner or operator shall maintain records of the following items: 1) hourly and daily emissions, in pounds, for each pollutant listed in this permit on the days startup and or shutdown of the gas turbine system occurs, 2) hourly and daily emissions, in pounds, for each pollutant in this permit on the days startup and or shutdown of the gas turbine system does not occur, 3) quarterly emissions, in pounds, for each pollutant listed in this permit, **and (4) the combined CO emissions (12 consecutive month rolling total), in pounds, for permit unit N-2697-5 and N-2697-7.** [District Rule 2201]

AQ-67 The owner or operator shall maintain a stationary gas turbine system operating log that includes, on a daily basis, the actual local startup and stop time, length and reason for reduced load periods, total hours of operation, the type and quantity of fuel used, duration of start-up, **and** duration **each** of shutdown, ~~date/time and duration of each primary re-ignition period.~~ [District Rule 2201 and 4703, 6.26, 6.28, 6.2.11]

AQ-69 The owner or operator shall submit a written report of CEM operations for each calendar quarter to the District. The report is due on the 30th day following the end of the calendar quarter and shall include the following: **Date**, ~~Time~~ intervals, data and magnitude of excess NOx emissions, nature and the cause of excess (if known), corrective actions taken and preventive measures adopted; Averaging period used for data reporting corresponding to the averaging period specified in the emission test period used to determine compliance with an emission standard; Applicable time and date of each period during which the CEM was inoperative, except for zero and span checks, and the nature of system repairs and adjustments; A negative declaration when no excess emissions occurred.

The Staff Assessment did not include District FDOC (Condition 72)

Page 4.1-63 to 65, Missing Acid Rain-Related Conditions of Certification

Conditions 108 through 121 from the FDOC need to be inserted to cover acid rain conditions.

Page 4.1-66 to 67, Proposed Conditions of Certification AQ-128 through 136

NCPA requests the verifications of these conditions be revised to reference the Condition of Certification AQ-46 instead of AQ-38.

Page 4.1-68, Proposed Condition of Certification AQ-137,

This verification should be revised to correct the reference from “proposed protocol” to “source test report.”

Verification: The project owner shall submit ~~the proposed protocol~~ for the source **test report** tests to both the District and CPM **within 60 days of completion of the tests** ~~for approval in accordance with condition AQ-38~~**46**.

Page 4.1-69, Proposed Condition of Certification AQ-145

NCPA requests this condition be revised to be consistent with District FDOC.

AQ-145 The permittee shall maintain records of: (1) the date, (2) heat input rate, MMBtu/day, (3) daily emissions (lb/day) for each pollutant listed in this permit, and (4) quarterly emissions (lb) for each pollutant listed in this permit **and the combined CO emissions (12 consecutive month rolling total), in pounds, for permit unit N-2697-5 and N-2697-7.** [District Rule 2201]

BIOLOGICAL RESOURCES

Page 4.2-1, Second Paragraph

NCPA provides the following clarification to illustrate that only a portion of the proposed natural gas pipeline would be located within the 200-foot GGS habitat buffer.

An adjacent irrigation canal to the south of the LEC project site has been identified as potential habitat for giant garter snake (GGS), a state and federal protected species. The SJMSCP requires a 200-foot buffer from GGS habitat, which the applicant will not be able to maintain during construction activities. In addition, one laydown area and the southern end of two other laydown areas and the LEC project site are located within the 200-foot GGS habitat buffer. **A portion of the** The proposed natural gas pipeline will also be located within the 200-foot buffer. The applicant....

Page 4.2-14, Second Paragraph)

NCPA requests the following addition to the text to clarify the scope of construction zone fencing.

Wildlife may become entrapped in open trenches during construction of the LEC or installation of the natural gas pipeline. As an impact avoidance and minimization measure, the applicant would set up wire backed silt fences around construction zones **adjacent to sensitive resource areas** to prevent the entrapment of wildlife. Additionally, staff recommends implementation of proposed Condition of Certification **BIO-8** (Mitigation Management to Avoid Harassment or Harm) which would also require the installation of escape ramps within open trenches, inspection of trenches for trapped animals, or covering open trenches at night. Implementation of these measures is expected to mitigate adverse impacts to wildlife.

Page 4.2-19, Last Paragraph, ending on page 4.2-20

NCPA requests the following addition to the text to clarify the parameters of construction and fencing within the 200 foot setback.

The SJMSCP requires a 200-foot setback from potential GGS habitat with no vegetation removal within the setback. The south end of the LEC project site including the swale area, Laydown Area C, southern end of Laydown Areas B and D, and approximately 1,200-foot segment of the natural gas pipeline would be within the required 200-foot setback. A recommendation by the HTAC for a variance to reduce the 200-foot setback to a 30-foot buffer has been approved by the JPA (SJCOG 2009). The reduction in the 200-foot setback is necessary as this would restrict the eventual footprint of the proposed LEC power plant, would limit the use of Laydown Areas B and D, and would restrict the use of Laydown Area C. The applicant proposes the following impact avoidance and minimization measures:

- Maintain a 30-foot buffer area from the edge of the irrigation canal;
- To the maximum extent possible **when working within the 200-foot GGS setback**, construction activities associated with vegetation removal, initial ground disturbance, and grading would be completed during the active season for the GGS between May 1 and October 31. Any ground disturbance outside of this window would only proceed once authorized by the HTAC.
- The buffer area will be clearly identified with temporary fencing and signs will be installed demarking the area as environmentally sensitive. Wire backed silt fencing will be installed prior to any ground disturbance to prevent snakes and other wildlife from entering the work areas **within the 200-foot GGS setback**.

Page 4.2-30, Proposed Condition of Certification BIO-5

NCPA requests that an allowance be made for electronic media as designated below.

- BIO-5** The project owner shall develop and implement a CPM approved Worker Environmental Awareness Program (WEAP) in which each of its employees, as well as employees of contractors and subcontractors who work on the project site or any related facilities during site mobilization, ground disturbance, grading, construction, operation and closure are informed about sensitive biological resources associated with the project.

The WEAP must:

1. Be developed by or in consultation with the Designated Biologist and consist of an on-site or training center presentation in which supporting written material and electronic media (**video or DVD**) is made available to all participants;....

Page 4.2-31, Proposed Condition of Certification BIO-6

NCPA requests modification to this condition to clarify that if no comments are received by HTAC or CPM within a reasonable time than the final documents can be prepared.

- BIO-6** The project owner shall submit two copies of the proposed Biological Resources Mitigation Implementation and monitoring Plan (BRMIMP) to the CPM (for review and approval) and to the HTAC (for review and comment) and shall implement the measures identified in the approved BRMIMP. **If no comments are received from the HTAC or the CPM within 30 days of submittal, the project owner may proceed with preparation of final documents.**

Page 4.2-33, Proposed Condition of Certification BIO-7

NCPA request that Item 4's prohibition on use of tertiary treated water for dust suppression adjacent to irrigation and drainage canals be deleted and that Item 7 include the word "active".

- BIO-7** Any time the project owner modifies or finalizes the project design they shall incorporate all feasible measures that avoid or minimize impacts to the local biological resources, including:
1. Design, install and maintain transmission line poles, access roads, pulling sites, and storage and parking areas to avoid identified sensitive resources;
 2. Design, install and maintain transmission lines and all electrical components in accordance with the Avian Power Line Interaction Committee (APLIC 2006) *Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 2006* to reduce the likelihood of electrocutions of large birds;
 3. Eliminate any California Exotic Pest Plants of Concern (Cal-IPC 2007) List A species from landscaping plans;

4. Prescribe a road sealant that is non-toxic to wildlife and plants ~~and use only fresh water when adjacent to irrigation and drainage canals;~~
5. Design, install, and maintain facility lighting to prevent side casting of light towards wildlife habitat;
6. Use straw wattles or silt fences to prevent sediment from reaching irrigation and drainage canals;
7. Establish buffer zones around **active** irrigation and drainage canals;....

[The remainder of the Condition is unchanged]

Page 4.2-34, Proposed Condition of Certification BIO-8

NCPA requests that the following language in item 8 of this condition be modified to reflect the application of this requirement to only within the 200 foot setback.

8. Construction activities associated with vegetation removal **when working within the 200-foot GGS setback**, initial ground disturbance, and grading would be completed during the active season for giant garter snake between May 1 and October 31.

[The remainder of the Condition is unchanged]

Page 4.2-36, Proposed Condition of Certification BIO-12

NCPA requests that the following language in item 3 of this condition be modified to provide for monthly submittal of nest survey results.

3. If active nests are detected during the survey, schedule work outside nesting and fledging periods. If this is not possible, a no-disturbance buffer zone (protected areas surrounding the nest, the size of which is to be determined by the Designated Biologist in consultation with the HTAC and monitoring plan shall be developed. Nest locations shall be mapped using GPS technology and submitted, along with a ~~weekly~~ **monthly** report stating the survey results to the CPM; and

CULTURAL RESOURCES

NCPA disagrees with the requirement that a geoarchaeology study is required for the LEC and therefore objects to the revised conditions of certification proposed by Staff that require such a study be performed. As discussed between Staff and NCPA

experts, the nature and location of this project warrant monitoring during construction as a sufficient form or mitigation to mitigate potential significant impacts related to the discovery of currently unknown buried cultural deposits. NCPA is surprised that Staff did not file a motion to compel this information during the normal discovery process. If Staff had filed a motion to compel, guidance from the Committee could have been helpful to determine whether the Committee agrees with Staff or NCPA concerning the necessity of such a study.

Nevertheless, NCPA remains open to discussing this issue in more detail at the SA Workshop with the goal of reaching a compromise modification to Staff's proposed conditions of certification.

HAZARDOUS MATERIALS

Page 4.4-18, Proposed Condition of Certification HAZ-4

NCPA requests the flexibility of using two routes for the delivery of hazardous materials to the site. Both routes were identified in the AFC and there does not appear to be any environmental reason to exclude the route.

HAZ-4 The project owner shall direct all vendors delivering any hazardous material to the site to use only ~~the one of two~~ routes approved by the CPM (I-5 to North Thornton Road to Frontage Road to North Cord Road to the project site **(if coming from north) or at West Eight Mile Road (if coming from south), and then travel on North Thornton Road to Frontage Road to North Cord Road to the project site)**). The project owner shall obtain approval of the CPM if an alternate route is desired.

Page 4.4-18, Proposed Condition of Certification HAZ-5 Verification

NCPA requests the verification of this condition be modified to clarify that if no comments are received by the CPM within a reasonable time, then the final documents can be prepared.

Verification: At least thirty (30) days prior to commencing construction, the project owner shall notify the CPM that a site-specific Construction Security Plan is available for review and approval. **The CPM shall review and approve the Construction Security Plan within thirty (30) days of submission.**

Page 4.4-20, Proposed Condition of Certification, HAZ-6 Verification)

NCPA requests modification to this condition to clarify that if no comments are received by the CPM within a reasonable time, then the final documents can be prepared.

Verification: At least thirty (30) days prior to LEC commissioning, the project owner shall notify the CPM that a site-specific operations site security plan is available for review and approval. **The CPM shall review and approve the Operation Security Plan within thirty (30) days of submission.** In the annual compliance report, the project owner shall include a statement that all current project employee and appropriate contractor background investigations have been performed, and that updated certification statements have been appended to the operations security plan. In the annual compliance report, the project owner shall include a statement that the operations security plan includes all current hazardous materials transport vendor certifications for security plans and employee background investigations.

Pages 4.4-29 through 33, Appendix B Hazardous Materials List

NCPA requests the following modifications to the Hazardous Materials List to reflect the most recent data.

On page 30 (bottom third): in the row of Coagulant NALCO 8108, please delete ~~800 gallons~~ and replace with **6,000 gallons**

On page 30 (bottom third): in the row of Dispersant NALCO 3DT-191, please delete ~~4,000 gallons~~ and replace with **2,000 gallons**

On page 30 (add new row, 6 columns, respectively as follows): **[Dispersant NALCO 3DT-155]; [None]; [Cooling water mineral dispersant]; [Health, may cause irritation with prolonged contact – Physical: slightly flammable]; [800 gallons]; and [NA]**

On page 31 (mid-page): in the row of Lime, please delete ~~2,000 pounds~~ and replace with **53 tons**

On page 32 (top of page): in the row of Magnesium Oxide, please delete ~~2,000 pounds~~ and replace with **75 tons**

On page 32 (top third): in the row of Mineral Insulating Oil, please delete ~~3,500 gallons~~ and replace with **37,600 gallons**

On page 32 (mid-page): in the row of Oxygen, in the application column add **cycle water treatment**; and, in the quantity column please delete ~~540 cubic feet~~ and replace with **2,340 cubic feet**

On page 33 (top third): in the row of Sodium Hydroxide, please delete 10 gallons and replace with **40 gallons**

On page 33 (mid-page): in the row of Sodium Hypochlorite, please delete 1,500 gallons and replace with **10,000 gallons**

On page 33 (bottom of page): in the row of Sulfuric Acid, please delete 3,000 gallons and replace with **6,000 gallons**

On page 33 (add new row, 6 columns, respectively as follows): **[Aqueous Ammonia (19%)]; [1336-21-6]; [boiler feedwater pH control]; [Health: Corrosive liquid, fatal if swallowed, skin and eye burns, toxic and irritating vapor, limited vapor flammability]; [800 gallons]; and [1,000 gallons]**

LAND USE

Page 4.5-3, Gas Pipeline Alignment, Second paragraph

Applicant requests that the following factual analysis be revised to reflect the current San Joaquin County ALUCP.

The Kingdon Airport is located north of and adjacent to the proposed pipeline route. The majority of the realigned gas pipeline would be located beneath land designated as **Traffic Pattern Zone (Zone 7)** Horizontal Surface of the Kingdon Airport. Additionally, a small portion^z of the realigned pipeline would be located beneath land designated as **Runway Protection Zone (Zone 1), Inner Approach/Departure Zone (Zone 2), and Inner Turning Zone (Zone 3)**. Transitional Zone, Runway Protection zone and Inner Approach Zone. Natural gas pipelines are an exempted and approved use in the Transitional Zone, according to Mike Swearingen at the San Joaquin Council of Governments (SJCOC), the Airport Land Use Commission for San Joaquin County (Swearingen, 2009). **In addition, pursuant to Table 3A (Safety Criteria Matrix) in the Airport Land Use Plan for San Joaquin County, finalized in July 2009, natural gas and petroleum pipelines are a prohibited use in Zones 1, 2, and 3 if the gas lines are less than 36 inches. However, the gas line for the LEC will be buried at a depth greater than 36 inches.** the Runway Protection Zone and Inner Approach Zone^z However, utility use is not allowed in the Runway Protection Zone, and natural gas and petroleum pipelines are prohibited uses within the Inner Approach Zone. Please refer to the **TRAFFIC AND TRANSPORTATION** section of this document for a thorough discussion of the project's airport-related impacts and proposed conditions of certification.

⁷http://www.sjcog.org/docs/pdf/Regional%20Planning/ALUC/Chapter%203_ALUCP%20Update.pdf

SOIL & WATER RESOURCES

Page 4.9-21, Proposed Condition of Certification SOIL&WATER 2, Verification

NCPA requests modification to this condition to clarify that if no comments are received by the CPM within a reasonable time, then the final documents can be prepared.

Verification: No later than 60 days prior to site mobilization, the project owner shall submit a copy of the DESCPC to the CPM for review and approval. **If no comments are received from the CPM within 30 days of submittal, the project owner may proceed with preparation of final documents. The CPM shall review and approve the final DESCPC within thirty (30) days of submission.** The DESCPC shall include elements A through I for soil disturbing activities associated with site elevation, grading, foundation excavation, and site stabilization.

Page 4.9-21, Proposed Condition of Certification SOIL&WATER 3

If the LEC encounters groundwater during construction and engages in dewatering , the water will be discharged directly to the wastewater treatment plant. Therefore the LEC will not be required to comply with the requirements of CVRWQCB Order NO. R5-2008-0081 for Waste Discharge Requirements for Dewatering and Other Low threat Discharges to Surface Waters and this condition should be deleted as unnecessary.

Page 4.9-23, Proposed Condition of Certification SOIL&WATER 9

NCPA requests that this condition be deleted since a Class I Nonhazardous UIC Permit for the LEC injection well has already been obtained and submitted to Staff.

TRAFFIC AND TRANSPORTATION

Page 4.10-10, First Sentence

NCPA requests that the following change be made to clarify the type of permit that would be required for delivery of heavy equipment.

Heavy Haul Route 2 would use N. Thornton Road for delivery of heavy equipment and require **a Transportation Permit for Oversized Loads** an encroachment permit from San Joaquin County, ~~and from Caltrans.~~

Page 4.10-12 Linear Facilities, First Paragraph

NCPA requests that the following corrections and clarification be made to this paragraph.

Natural gas would be provided using a new 12-inch diameter gas line that will connect to Pacific Gas and Electric Company's existing gas transmission line #108 (LEC 2009-Supplement C, p.1). The revised natural gas pipeline would parallel the existing 3-mile pipeline that currently serves the applicant's existing 49-megawatt Combustion Turbine Power Plant No.2, which is adjacent to the proposed LEC project site. ~~The portion of the supply line route proposed to be upgraded is the section between N. Thornton Road and N. Devries Road, and will increase the length of the linear by 1,274 feet.~~ To reduce project impacts....

Page 4.10-13, Transport of Hazardous Materials and Waste, bottom of page

Project operation would require use of hazardous substances including sulfuric acid and cleaning and water treatment chemicals. It is estimated that there would be a maximum of six delivery/service trucks per week. Operation would also require a maximum of ~~four~~ **two** deliveries per month of aqueous **anhydrous** ammonia. A licensed hazardous waste transporter would haul any hazardous waste from the project site to one of three Class 1....

Page 4.10-18, Proposed Condition of Certification TRANS-1

The Proposed Condition should reflect the Highway Patrol to match the verification. And, in the Verification, NCPA requests modification to clarify CPM review to occur within a reasonable time frame.

TRANS-1 The project owner shall submit the proposed traffic control and implementation plan to the affected local jurisdiction, San Joaquin County, **the California Highway Patrol** and Caltrans for review and comment. **If no comments are received from the County, the California Highway Patrol, or Caltrans within 30 days of submittal, the project owner may proceed with preparation of final documents.** The project owner shall provide to the CPM a copy of the transmittal letter submitted to the affected local jurisdiction, **the California Highway Patrol**, and Caltrans requesting their review of the traffic control and implementation plan. The project owner shall provide any comment letters to the CPM for review and approval.

Verification: At least 60 days prior to start of site mobilization, the project owner shall provide to the city of Lodi and county of Joaquin, Caltrans, and the California Highway Patrol for review and comment and to the CPM for review and approval, a copy of the construction traffic control plan. The plan must document consultation with these agencies. **The CPM**

shall review and approve the final traffic control plan within thirty (30) days of submission.

Page 4.10-18, Proposed Condition of Certification TRANS-2 Verification

NCPA requests the following typographical change and provides a modification to clarify that if no comments are received by the CPM within a reasonable time, then the final documents can be prepared.

Verification: At least 90 days prior to the start of site mobilization, the project owner shall submit a mitigation plan focused on restoring Eight Mile Road, North Thornton Road, I-5 Frontage Road, and Cord Road to its pre-project condition to the ~~city of Anaheim Public Works and~~ **San Joaquin County** Planning Department for review and comment and to the CPM for review and approval. **If no comments are received from the County Planning Department and the CPM within 30 days of submittal, the project owner may proceed with preparation of final documents.**

TRANSMISSION LINE SAFETY AND NUISANCE

Page 4.11-5, Aviation Safety, Third Paragraph

NCPA requests that the following numerical modification be made to reflect the correct distance of Kingdon runway.

The applicant has identified the Kingdon Airpark and Lodi Airpark as the nearest public airports to LEC. Kingdon Airpark is approximately 1.4 miles from the site and with a runway of ~~3,750~~ **3,705** feet that would...

VISUAL RESOURCES

Page 4.12-11, Last Paragraph on Page

NCPA requests the following additions to better clarify the associated roadways.

“The White Slough Wildlife Area, part of the Sacramento-San Joaquin Delta Estuary, is located west of and parallel to I-5. Ponds 9 through 13 are south of Highway 12 and accessed via Thornton Road **to a frontage road. Thornton Road is also** the ~~same~~ road used to access the LEC. See **Visual Resources Figure 2** for a map of the Sacramento-San Joaquin Delta Estuary.”

Page 4.12-16, Linears, First Paragraph

NCPA requests the following modifications to clarify the location of the transmission structures.

Three transmission poles and the turning pole and lines will be installed on the east side of the property. Two transmission poles and lines will be installed on the north side of the property. ~~Five new 75-foot transmission poles will be placed on the LEC's eastern boundary.~~ The poles are shorter than the existing transmission line corridors already existing on the site. These lines will tie into the existing 230kV located west of the project site, adjacent to the STIG plant.

Page 4.12-18, Current Development Projects, First Paragraph

NCPA requests the following change to reflect that the improvements by the City of Lodi Public Works are unrelated to the LEC project.

According to the AFC, 21 residential, office, mixed use, institutional, commercial, and industrial projects were in various stages of progress in the city of Lodi in July 2008. All projects are located more than four miles from the proposed LEC, except for the improvements at the White Slough WPCF (Draft EIR issued March 28, 2008), which is adjacent to the project site (LEC AFC, 2009b). Staff notes that according to the City of Lodi Public Works Department, the improvements to the White Slough Water Pollution Control facility **are** scheduled to begin and end in 2010. ~~and last between 18 to 24 months, are being done to accommodate the increased water flow needed by the LEC.~~

Page 4.12-22, Proposed Condition of Certification VIS-2

The City of Lodi does not require landscaping at the LEC site to comply with its code. The County LORS do not apply to the LEC which is located within the City of Lodi and therefore, landscaping which may be required for a project within the County is inapplicable to the LEC. Additionally, landscaping is not required to mitigate any potential significant visual resources related impact. Finally, there is insufficient space on the LEC site to accommodate the landscaping proposed by Staff. Therefore **VIS-2** should be deleted as unnecessary.

Page 4.12-23, Proposed Condition VIS-3, Verification

The verification to this condition requires NCPA to ensure that the cooling tower is designed and operated to meet a plume fogging frequency curve that was superceded by a more accurate curve. The curve submitted as Figure 3.13-1 in Supplement D was replaced with a curved submitted to the CEC on August 13, 2009. It appears that Staff's analysis used the outdated curve. NCPA recommends that the Staff evaluate the curve submitted on August 13, 2009 and revise the verification to refer to this curve.

WASTE

Page 4.13-15, Proposed Condition of Certification WASTE-1 Verification

NCPA requests modification to the condition to require CPM review to occur within a reasonable time frame.

Verification: The project owner shall submit the Construction Waste Management Plan to the CPM for approval no less than 30 days prior to the initiation of construction activities at the site. **The CPM shall review and approve the Construction Waste Management Plan within thirty (30) days of submission.**

Page 4.13-16, Proposed Condition of Certification WASTE-6 Verification

NCPA requests modification to the condition to require CPM review to occur within a reasonable time frame.

Verification: The project owner shall submit the Operation Waste Management Plan to the CPM for approval no less than 30 days prior to the start of project operation. The project owner shall submit any required revisions to the CPM within 20 days of notification from the CPM that revisions are necessary. **The CPM shall review and approve the final Operation Waste Management Plan within ten (10) days of submission.**

WORKER SAFETY

Page 4.14-12, Operations, Second Paragraph

There will be no fixed sprinkler system on the cooling tower. Instead, NCPA will be using monitor nozzles for fire suppression. The cooling tower is also made out fire resistant materials.

Page 4.14-14, Proposed Condition of Certification WORKER SAFETY-1

NCPA requests modification to this condition to clarify that if no comments are received by the CPM within a reasonable time than the final documents can be prepared. And, that the CPM review the final document within a reasonable period of time.

WORKER SAFETY-1 The project owner shall submit to the Compliance Project Manager (CPM) a copy of the Project Construction Safety and Health Program containing the following:

- A Construction Personal Protective Equipment Program;

- A Construction Exposure Monitoring Program;
- A Construction Injury and Illness Prevention Program;
- A Construction Emergency Action Plan; and
- A Construction Fire Prevention Plan.

The Personal Protective Equipment Program, the Exposure Monitoring Program, and the Injury and Illness Prevention Program shall be submitted to the CPM for review and approval concerning compliance of the program with all applicable safety orders. The Construction Emergency Action Plan and the Fire Prevention Plan shall be submitted to the Woodbridge Fire Protection District for review and comment prior to submittal to the CPM for approval. **If no comments are received from the Woodbridge Fire Protection District or the CPM within 30 days of submittal, the project owner may proceed with preparation of final documents.**

Verification: At least 30 days prior to the start of construction, the project owner shall submit to the CPM for review and approval a copy of the Project Construction Safety and Health Program. The project owner shall provide a copy of a letter to the CPM from the Woodbridge Fire Protection District stating the fire department's comments on the Construction Fire Prevention Plan and Emergency Action Plan. **The CPM shall approve the final Project Construction Safety and Health Program within thirty (30) days of submission.**

Page 4.14-14, Proposed Condition of Certification, WORKER SAFETY-2

NCPA requests modification to this condition to clarify that if no comments are received by the CPM within a reasonable time, then the final documents can be prepared. NCPA also requests that the CPM review the final document within a reasonable period of time.

WORKER SAFETY-2 The project owner shall submit to the CPM a copy of the Project Operations and Maintenance Safety and Health Program containing the following:

- An Operation Injury and Illness Prevention Plan;
- An Emergency Action Plan;
- Hazardous Materials Management Program;
- Fire Prevention Plan (8 Cal Code Regs. § 3221); and
- Personal Protective Equipment Program (8 Cal Code Regs, §§ 3401-3411).

The Operation Injury and Illness Prevention Plan, Emergency Action Plan, and Personal Protective Equipment Program shall be submitted to the CPM for review and comment concerning compliance of the programs with all applicable safety orders. The Fire Prevention Plan and the Emergency Action Plan shall also be submitted to the Woodbridge Fire Protection District for review and comment. **If no comments are received from the Woodbridge Fire Protection District or the CPM within 30 days of submittal, the project owner may proceed with preparation of final documents**

Verification: At least 30 days prior to the start of first-fire or commissioning, the project owner shall submit to the CPM for approval a copy of the Project Operations and Maintenance Safety and Health Program. The project owner shall provide a copy of a letter to the CPM from the Woodbridge Fire Protection District stating the fire department's comments on the Operations Fire Prevention Plan and Emergency Action Plan. **The CPM shall approve the final Operations Fire Prevention Plan and Emergency Action Plan within thirty (30) days of submission.**

FACILITY DESIGN

Pages 5.1-7 and 8, Proposed Condition GEN -2 Verification, Table 2

Applicant requests that the Table be updated to reflect the following changes.

At Unit Auxiliary Transformer Skid Foundation and Connections: Delete 4 and replace with **2**

At HRSG High Pressure Tubing : Replace 4 with **1 lot**

At CEMS Building Structure, Foundation and Connections; Replace 4 with **2**

At LCI Isolation Transformer Foundation and Connections: **Delete** entire entry

At Generator Circuit Breaker Foundation and Connections: Replace 4 with **2**

At HRSG PDC Structure, Foundation and Connections: **Delete** entire entry

At HVAC and Refrigeration Systems: modify to reflect only HVAC, no refrigeration system

GEOLOGY AND PALEONTOLOGY

Pages 5.2-16 through 5.2-22, Proposed Conditions PAL 1 through 5

NCPA requests the minor modifications to the language in this series of proposed conditions as it relates generally to qualifications and time lines for reporting.

PAL-1 The project owner shall provide....

(under the last bullet-point of the Condition)

- Enrollment in upper division classes pursuing a degree in the fields of geology or paleontology and ~~two years of monitoring experience in California.~~

Verification:

(1) At least 60 days prior to the start of ground disturbance, the project owner shall submit a resume and statement of availability of its designated PRS for on-site work.

~~(2) At least 20 days prior to ground disturbance, the PRS or project owner shall provide a letter with resumes naming anticipated monitors for the project stating that the identified monitors meet the minimum qualifications for paleontological resource monitoring required by the condition. If additional monitors are obtained during the project, the PRS shall provide additional letters and resumes to the CPM. The letter shall be provided to the CPM no later than one week prior to the monitor's beginning on-site duties.~~

(3) Prior to the termination or release of a PRS, the project owner shall submit the resume of the proposed new PRS to the CPM for review and approval.

PAL-2 The project owner shall provide to the PRS and the CPM, ~~for~~ approval, maps and drawings....

(no further changes to PAL-2 Condition or Verification)

PAL-3 If after review of the plans provided pursuant to **PAL-2, or during subsequent construction,** the PRS determines that materials with moderate or high ~~or unknown~~ paleontological sensitivity could be impacted, the project owner shall ensure that the PRS prepares, and the project owner submits to the CPM for review and approval, a paleontological resources monitoring and mitigation plan (PRMMP) to identify general and specific measures to minimize potential impacts to significant paleontological resources. ~~Approval of the PRMMP by the CPM~~

~~shall occur prior to any ground disturbance.~~ The PRMMP shall function as the formal guide for monitoring, collecting, and sampling activities and may be modified with CPM approval. This document shall be used as the basis of discussion when on-site decisions or changes **to mitigation or monitoring procedures** are proposed. Copies of the PRMMP shall reside with the PRS, each monitor, the project owner's on-site manager, and the CPM.

The PRMMP shall be developed in accordance with the guidelines of the Society of Vertebrate Paleontology (SVP 1995) and shall include, but not be limited to, the following:

1. Assurance that the performance and sequence of project-related tasks, such as any literature searches, pre-construction surveys, worker environmental training, fieldwork, flagging or staking, construction monitoring, mapping and data recovery, fossil preparation and collection, identification and inventory, preparation of final reports, and transmittal of materials for curation will be performed according to PRMMP procedures;
2. Identification of the person(s) expected to assist with each of the tasks identified within the PRMMP and the ~~conditions of certification~~ **names and qualifications of paleontological resource monitors (PRMs)**;
3. A thorough discussion of the anticipated geologic units expected to be encountered, the location and depth of the units relative to the project when known, and the known sensitivity of those units based on the occurrence of fossils either in that unit or in correlative units;
4. An explanation of why, how, and how much sampling is expected to take place and in what units. Include descriptions of different sampling procedures that shall be used for fine-grained and coarse-grained units;
5. A discussion of the locations of where the monitoring of project construction activities is deemed necessary, and a proposed plan for monitoring and sampling;
6. A discussion of procedures to be followed in the event of a significant fossil discovery, halting construction, resuming construction, and how notifications will be performed;
7. A ~~discussion~~ **list** of equipment and supplies necessary for collection of fossil materials and any specialized equipment

needed to prepare, remove, load, transport, and analyze large-sized fossils or extensive fossil deposits;

8. Procedures for inventory, preparation, and delivery for curation into a retrievable storage collection in a public repository or museum, which meet the Society of Vertebrate Paleontology's standards and requirements for the curation of paleontological resources;
9. Identification of the institution that ~~has agreed~~ **will be approached** to receive data and fossil materials collected, requirements or specifications for materials delivered for curation, and how they will be met, and the name and phone number of the contact person at the institution; and
10. A copy of the paleontological conditions of certification.

Verification:

At least 30 days prior to ground disturbance **Not more than 5 days after notice from the PRS that paleontologically sensitive sediments are, or are likely to be impacted,** the project owner shall provide a copy of the PRMMP to the CPM. The PRMMP shall include an affidavit of authorship by the PRS and acceptance of the PRMMP by the project owner evidenced by a signature.

PAL-4 If after review of the plans provided pursuant to **PAL-2**, the PRS determines that materials with moderate **or** high, ~~or unknown~~ paleontological sensitivity could be....

(remainder of Condition unchanged)

Verification:

(1) At least 30 **Not more than 5** days prior to ground disturbance **after implementation of a PRMMP,** the project owner shall submit the proposed WEAP, including the brochure, with the set of reporting procedures for workers to follow.

(2) At least 30 **Not more than 20** days prior to ground disturbance **after implementation of a PRMMP,** the project owner shall submit the script and final video to the CPM for approval if the project owner is planning to use a video for interim training.

(3) If the owner requests an alternate paleontological trainer, the resume and qualifications of the trainer shall be submitted to the CPM for review

and approval prior to installation of an alternate trainer. Alternate trainers shall not conduct training prior to CPM authorization.

(4) In the monthly compliance report (MCR), the project owner shall provide copies of the WEAP certification of completion forms with the names of those trained and the trainer or type of training (in-person or video) offered that month. The MCR shall also include a running total of all persons who have completed the training to date.

PAL-5 ~~The **Subject to PAL-3, the** project owner shall ensure that the PRS and PRM(s) monitor consistent with the PRMMP all construction-related grading, excavation, trenching, and augering in areas where potential fossil-bearing materials have been identified, both at the site and along any constructed linear facilities associated with the project. In the event that the PRS determines full-time monitoring is not necessary in locations that were identified as potentially fossil-bearing in the PRMMP, the project owner shall notify and seek the concurrence of the CPM.~~

Upon the implementation of a PRMMP (see PAL-3), The project owner shall ensure that the PRS and PRM(s) have the authority to halt or redirect construction if paleontological resources are encountered. The project owner shall ensure that there is no interference with monitoring activities unless directed by the PRS. Monitoring activities shall be conducted as follows:

1. Any change of monitoring from the accepted schedule in the PRMMP shall be proposed in a letter or email from the PRS and the project owner to the CPM prior to the change in monitoring and will be included in the monthly compliance report. The letter or email shall include the justification for the change in monitoring and be submitted to the CPM for review and approval.
2. The project owner shall ensure that the PRM(s) keeps a daily monitoring log of paleontological resource activities. The PRS may informally discuss paleontological resource monitoring and mitigation activities with the CPM at any time.
3. The project owner shall ensure that the PRS notifies the CPM within 24 hours of the occurrence of any incidents of non-compliance with any paleontological resources conditions of certification. The PRS shall recommend corrective action to resolve the issues or achieve compliance with the Conditions of Certification.

4. For any significant paleontological resources encountered, either the project owner or the PRS shall notify the CPM within 24 hours, or Monday morning in the case of a weekend event where construction has been halted because of a paleontological find.

Upon implementation of a PRMMP, The project owner shall ensure that the PRS prepares a summary of monitoring and other paleontological activities placed in the monthly compliance reports. The summary will include the name(s) of PRS or PRM(s) active during the month; general descriptions of training and monitored construction activities; and general locations of excavations, grading, and other activities. A section of the report shall include the geologic units or subunits encountered, descriptions of samplings within each unit, and a list of identified fossils. A final section of the report will address any issues or concerns about the project relating to paleontologic monitoring, including any incidents of non-compliance or any changes to the monitoring plan that have been approved by the CPM. If no monitoring took place during the month, the report shall include an explanation in the summary as to why monitoring was not conducted.

Verification: After implementation of a PRMMP, the project owner shall ensure that the PRS submits the summary of monitoring and paleontological activities in the MCR. When feasible, the CPM shall be notified 10 days in advance of any proposed changes in monitoring different from the plan identified in the PRMMP. If there is any unforeseen change in monitoring, the notice shall be given as soon as possible prior to implementation of the change.

POWER PLANT RELIABILITY

Page 5.4-4, Equipment Redundancy

NCPA requests that the numerical designations for the condensate pumps be changed as follows:

- ~~Three 50%~~ **Two 100%** capacity condensate pumps;

TRANSMISSION SYSTEM ENGINEERING

Page 5.5-12, Proposed Condition of Certification TSE – 5

NCPA requests that paragraph “J” be deleted because the system impact study did not identify any impact to the WAPA system and the LEC will not interconnect with WAPA.

CONCLUSION

NCPA will continue to work cooperatively with Staff to facilitate the upcoming Workshop, Conference and Hearing so that the LEC project can be certified in an expeditious manner. It is our hope that the comments herein will assist Staff in meeting its obligations and facilitate preparation of final testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "S. A. Galati", with a horizontal line underneath it.

Scott A. Galati
Counsel to NCPA



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 *Lodi Energy Center*

Docket No. 08-AFC-10

PROOF OF SERVICE
 (Revised 2/17/09)

APPLICANT

Ken Speer
 Assistant General Manager
 Northern California
 Power Agency
 651 Commerce Drive
 Roseville, CA 95678
ken.speer@ncpagen.com

Ed Warner
 Project Manager
 Northern California
 Power Agency
 P.O. Box 1478
 Lodi, CA 95241
ed.warner@ncpagen.com

APPLICANT'S COUNSEL

Scott Galati
 Galati Blek
 455 Capitol Avenue, Ste. 350
 Sacramento, CA 95814
sgalati@gb-llp.com

APPLICANT'S CONSULTANT

Andrea Grenier
 Grenier & Associates, Inc.
 1420 E. Roseville Pkwy,
 Ste. 140-377
 Roseville, CA 95661
andrea@agrenier.com

Sarah Madams
 CH2MHILL
 2485 Natomas Park Drive,
 Ste. 600
 Sacramento, CA 95833
smadams@ch2m.com

APPLICANT'S ENGINEER

Steven Blue
 Project Manager
 Worley Parsons
 2330 E. Bidwell, Ste. 150
 Folsom, CA 95630
Steven.Blue@WorleyParsons.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

ENERGY COMMISSION

KAREN DOUGLAS
 Chairman and Presiding
 Member
kldougl@energy.state.ca.us

JEFFREY D. BYRON
 Commissioner and Associate
 Member
jbyron@energy.state.ca.us

Kenneth Celli
 Hearing Officer
kcelli@energy.state.ca.us

Rod Jones
 Project Manager
rjones@energy.state.ca.us

Melanie Moultry
 Staff Counsel
MMoultry@energy.state.ca.us

Public Adviser
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Ashley Y. Garner, declare that on December 10, 2009, I served and filed copies of the attached **NCPA's COMMENTS ON THE STAFF ASSESSMENT** dated **December 10, 2009**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:
[www.energy.ca.gov/sitingcases/lodi/index.html].

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

(Check all that Apply)

For service to all other parties:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-10
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Ashley Y. Garner