

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

December 18, 2009

Mr. David Warner
Director of Permit Services
San Joaquin Valley Unified Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93726

DOCKET	
08-AFC-10	
DATE	<u>DEC 18 2009</u>
RECD.	<u>DEC 21 2009</u>

Dear Mr. Warner:

Lodi Energy Center (08-AFC-10)**Comments on: Draft Final Determination of Compliance, Project # N-1083490**

Energy Commission staff appreciates the opportunity to provide written public comments on the Draft Final Preliminary Determination of Compliance (Draft FDOC) issued by the District on November 19, 2009 for the Lodi Energy Center (LEC) proposed by Northern California Power Agency (NCPA).

Energy Commission staff, pursuant to both the Warren-Alquist Act and the California Environmental Quality Act (CEQA), must determine whether the facility is likely to conform with applicable laws, ordinances, regulations, and standards, and whether mitigation measures can be developed to lessen potential impacts to a level of insignificance. These determinations may be difficult without additional information from the San Joaquin Valley Air Pollution Control District (SJVAPCD or District) in support of the Draft FDOC.

Potential to Emit, Federally-Enforceable

The applicant has provided information to U.S. Environmental Protection Agency (EPA) and Energy Commission staff showing that the facility would not be a major source under the federal Prevention of Significant Deterioration (PSD) program. The District's Draft FDOC, however, clearly shows that the Post Project Potential to Emit (PE2) for the gas turbine of 421,200 lb/yr exceeds 100 tons per year for carbon monoxide (CO). This exceeds the major source threshold for PSD. Based on the Operating Schedule and emissions in the Draft FDOC (p. 10), Lodi Energy Center appears to be a major PSD source for CO. It is not clear if the District's annual emission limits are meant to be federally-enforceable.

- Please quantify the facility's potential to emit for determining applicability of the federal PSD program. We recognize that PSD is administered by U.S. EPA, but suggest that the District note how its definition of Post Project Potential to Emit (PE2) may differ from the federal definition of "potential to emit" in the Code of Federal Regulations (40 CFR 52.21).
- Please describe how the permit emission limits would be made federally-enforceable.

Potential to Emit, Consistency with Applicant's Proposal

We strongly recommend that the calculations for annual potential emissions in the permit conditions be revised to match the currently-proposed project. NCPA's November 13, 2009 letter to U.S. EPA is a withdrawal of the application for the PSD permit that is based upon: 1) lower CO emissions during gas turbine startups (500 pounds per hour on average); and 2) operating in startup mode fewer hours per year than shown in the District's Draft FDOC, which also lowers annual emissions of nitrogen oxides (NOx).

- The FDOC should show the Operating Schedule consistent with the applicant's current proposed potential to emit. For example, for CO, NCPA has proposed 234 hours in startup and 7,590 hours in base load operation annually. Fewer startups and fewer hours in startup reduce NOx and CO, when compared to the quarterly and annual emissions shown in the Draft FDOC.
- The potential annual emissions should reflect the quarterly emission limits (Conditions #44 to #49) consistent with the proposed Operating Schedule.
- The Post Project Stationary Source Potential to Emit (SSPE2 in Draft FDOC p. 15) should include the potential emissions of NOx and CO from the auxiliary boiler, which currently appear as zero.

Potential to Emit, Assuring Compliance

We suggest that permit conditions be made enforceable with limitations on operations, rather than simple emission caps, which are more difficult to track. Operating limitations help to assure compliance because they can be used as a preliminary indicator of whether an emission cap might soon be exceeded.

- We recommend specifying physical or operational limitations, for example, maximum hours of operation, hours in startup mode, and/or heat input rate, for limiting the potential to emit from the gas turbine. The operational limitations should be consistent with the annual operating profile in NCPA's November 13, 2009 letter to U.S. EPA.

Draft Permit Conditions, Formatting

The Draft FDOC includes "Draft Permit Conditions" in its Attachment A, and Energy Commission staff aims to use these conditions as the basis for recommended Conditions of Certification. It appears that conditions marked with "*****" are meant to be formatted as subheadings rather than numbered conditions.

- Please provide the final conditions and numbering that the District recommends as part of its Final Determination of Compliance.
- For simplicity, conditions that apply to multiple units or facility-wide need not be repeated as part of each permit unit requirements. For example, the CEQA Condition (#2), Nuisance Condition (#10), Offsets Conditions (#86 to #95), Dust Control Conditions (#97 to #106), and Acid Rain Conditions (#108 to #121) could be included under a separate header for facility-wide conditions rather than duplicating them as part of separate unit conditions.

Mr. Warner, SJVAPCD

December 18, 2009

Page 3

We appreciate the District working with Energy Commission staff on this licensing case. If you have any questions regarding our comments, please contact Gerald Bemis at (916) 654-4960. We look forward to discussing our comments in further detail with you.

Sincerely,

/s/

MATTHEW S LAYTON
Supervising Mechanical Engineer

cc: Docket (08-AFC-10)
Proof of Service List
Dave Mehl, California Air Resources Board
Gerardo Rios, U.S. Environmental Protection Agency, Region IX



**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
kldougla@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, Julie Mumme, declare that on December 21, 2009, I served and filed copies of the attached Letter dated December 18, 2009 to David Warner, Director of Permit Services, San Joaquin Valley Unified Air Pollution Control District regarding Lodi Energy Center (08-AFC-10) Comments on: Draft Final Determination of Compliance, Project # N01083490. 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:

[\[http://www.energy.ca.gov/sitingcases/lodi\]](http://www.energy.ca.gov/sitingcases/lodi).

The documents have 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:

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

 X 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:

 X 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.

Original Signed By _____
Julie Mumme