

**DOCKET**

**08-AFC-10**

DATE DEC 24 2009

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December 24, 2009

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

Subject: **NCPA'S PRE-HEARING CONFERENCE STATEMENT  
DOCKET NO. (08-AFC-10)**

Enclosed for filing with the California Energy Commission is the original copy of **NCPA'S PRE-HEARING CONFERENCE STATEMENT**, for the Lodi Energy Center (08-AFC-10).

Sincerely,



Robert A Gladden  
Counsel to NCPA

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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

Application for Certification for the  
**LODI ENERGY CENTER**

**DOCKET NO: 08-AFC-10**

**NORTHERN CALIFORNIA POWER  
AGENCY'S PREHEARING  
CONFERENCE STATEMENT**

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Northern California Power Agency (NCPA), in accordance with 20 CCR § 1718.5 and the Committee Order dated November 24, 2009, hereby files its Prehearing Conference Statement for the Lodi Energy Center (LEC). NCPA is prepared to proceed to evidentiary hearing on all topic areas contained in the Staff Assessment (SA).

In accordance with the above referenced order, NCPA presents its Prehearing Conference Statement, as follows:

A. Topic Areas: Complete and Ready for Adjudication

NCPA believes that all topic areas (and or disciplines) are complete and ready for adjudication at the Evidentiary Hearing to be held subsequent to this Prehearing Conference.

1. Undisputed: All topics/disciplines have been carefully analyzed by NCPA independently and in concert with the CEC Staff during the progression of the Application for Certification. It is in this respect that NCPA submits that all topics/disciplines are undisputed, save minor clarifications to analysis and modifications to some of the conditions of certification.

NCPA filed its complete testimony on December 22, 2009 which sets forth the modifications it has requested to the Staff Assessment and conditions. These modifications are minor and the only area that may be disputed is ammonia slip.

2. Disputed: None

B. Incomplete Topic Areas – reason for need of further analysis

FDOC. NCPA believes that the only topic area that may require the evidentiary record to be left open is the Final FDOC. NCPA is working to obtain the Final FDOC in time for the Hearing on January 5, 2010. If the FDOC is not received by that time, NCPA will seek to leave the evidentiary record open for the limited purpose of receiving the Final FDOC into evidence when it is published. All other topics are complete and ready for adjudication at the Evidentiary Hearing to be held subsequent to this Prehearing Conference.

C. Witness List: Area of Expertise, Summary of Testimony and Time Required

1. Scope of Examination – Direct and Prospective Cross

Please refer to Table 1, attached herewith.

Table 1 includes estimates for direct examination of NCPA witnesses based on our belief that most topic areas can be submitted into the evidentiary record on declaration. If Staff requests live testimony on any of these topics, we reserve the right

to modify our Prehearing Conference Statement to include additional witnesses and additional time for direct and cross-examination.

D. Exhibit List:

Please refer to Table 2 which includes a list of all Exhibits that are available at this time. NCPA does note that the Final FDOC is not identified on the Proposed Exhibit List at this time.

E. Scheduling:

NCPA does not believe that any of the issues will need to be the subject of briefs after evidentiary hearing and urges the Committee to prepare the Presiding Member's Proposed Decision as soon as is feasible.

F. (Proposed) Conditions of Certification

NCPA has carefully reviewed the SA and is in general agreement with the substantial majority of its contents. Topic areas where NCPA respectfully requests modifications are presented in its testimony filed on December 22, 2009. Additionally, to assist the Committee with the proposed modifications, NCPA provides the following brief description of the proposed modifications.

**AIR QUALITY**

NCPA and Staff were extremely successful in the Staff Assessment (SA) workshop process in resolving all major disagreements relating to Air Quality. In its testimony NCPA requests minor clarifications and or modifications to the SA and Proposed Conditions of Certification to make the SA conditions consistent with the SJVAPCD conditions. As discussed above, the only disputed area is the ammonia slip limit.

## **BIOLOGICAL RESOURCES**

NCPA has submitted minor modifications to the Proposed Conditions of Certification within the testimony already submitted to the committee. These changes are minor and NCPA believes based on the SA Workshop that Staff agrees with NCPA's proposed changes and can be submitted upon declaration.

## **HAZARDOUS MATERIALS**

NCPA has submitted a revised table of hazardous materials with corresponding minor modifications to the Proposed Conditions of Certification within the testimony already submitted to the committee. NCPA believes this subject area can be submitted upon declaration.

## **SOIL AND WATER RESOURCES**

NCPA has submitted minor modifications to the Proposed Conditions of Certification in its testimony. NCPA believes this subject area can be submitted upon declaration.

## **TRAFFIC AND TRANSPORTATION**

NCPA has submitted minor clerical corrections to the SA within its testimony. The modifications basically involve general clarification and grammatical changes and minor modifications to the Proposed Conditions of Certification. NCPA believes this subject area can be submitted upon declaration.

## **VISUAL RESOURCES**

NCPA has submitted minor modifications to the Proposed Conditions of Certification and reviewed with Staff at the SA Workshop. NCPA believes Staff agrees with these modifications and therefore this area can be submitted upon declaration.

## **FACILITY DESIGN**

NCPA has submitted minor modifications to the Equipment List in the Verification of Proposed Condition GEN-2 within its testimony and reviewed with Staff at the SA Workshop. NCPA believes Staff agrees with these modifications and therefore this area can be submitted upon declaration.

## **GEOLOGY AND PALEONTOLOGY**

NCPA has submitted a minor modification to one Proposed Conditions of Certification within its testimony and reviewed with Staff at the SA Workshop. NCPA believes Staff agrees with these modifications and therefore this area can be submitted upon declaration.

## **TRANSMISSION SYSTEM ENGINEERING**

NCPA has submitted minor modifications to the Proposed Conditions of Certification within its testimony and reviewed with Staff at the SA Workshop. NCPA believes Staff agrees with these modifications and therefore this area can be submitted upon declaration.

## **CONCLUSION**

NCPA believes that the LEC is ready for evidentiary hearing on January 5, 2010.

Dated: December 24, 2009

Respectfully Submitted,

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Robert A. Gladden  
Counsel to NCPA

**TABLE 1**

**Lodi Energy Center (LEC) (08-AFC-10)  
Proposed Witness List**

<b>TOPIC AREA</b>	<b>DISPUTES BETWEEN PARTIES</b>	<b>WITNESS</b>	<b>TESTIMONY SUMMARY</b>	<b>DIRECT TESTIMONY ESTIMATE</b>	<b>CROSS-EXAM ESTIMATE</b>
<b>PROJECT DESCRIPTION</b>	None	Edward Warner, NCPA	Minor changes to description, Submitted on Declaration	5 minutes	None
<b>AIR QUALITY</b>	Minor dispute on ammonia and clarification of record	Jeffrey Adkins, Sierra Research Edward Warner, NCPA	Minor dispute on ammonia slip and conform FDOC conditions; provide GHG evidence to support new mandatory findings	15 minutes	None
<b>BIOLOGICAL RESOURCES</b>	None	Russell Huddleston, CH2M Hill	Minor condition modifications and project description modifications, Submitted on Declaration	5 minutes	None
<b>CULTURAL RESOURCES</b>	None	W. Geoffrey Spaulding, Ph.D., CH2M Hill Clint Helton, CH2M Hill	Submitted on Declaration	5 minutes	None
<b>HAZARDOUS MATERIALS</b>	None	Steve Blue, Worley Parsons	Updated Hazardous Material List; minor condition modifications, Submitted on Declaration	5 minutes	None

<b>TOPIC AREA</b>	<b>DISPUTES BETWEEN PARTIES</b>	<b>WITNESS</b>	<b>TESTIMONY SUMMARY</b>	<b>DIRECT TESTIMONY ESTIMATE</b>	<b>CROSS-EXAM ESTIMATE</b>
<b>LAND USE</b>	None	Sarah Madams, CH2M Hill	Minor correction to Staff Assessment regarding Airport Land Use Plan, Submitted on Declaration	5 minutes	None
<b>NOISE AND VIBRATION</b>	None	Sarah Madams, CH2M Hill	Submitted on Declaration	5 minutes	None
<b>PUBLIC HEALTH</b>	None	Jeffrey Adkins, Sierra Research	Submitted on Declaration	5 minutes	None
<b>SOCIOECONOMICS</b>	None	Sarah Madams, CH2M Hill	Submitted on Declaration	5 minutes	None
<b>SOIL AND WATER RESOURCES</b>	None	Michael DeBortoli, NCPA	Minor changes to Condition; Submitted on Declaration	5 minutes	None
<b>TRAFFIC AND TRANSPORTATION</b>	None	Sarah Madams, CH2M Hill	Minor corrections to Staff Assessment and minor changes to Conditions; Submitted on Declaration	5 minutes	None
<b>TRANSMISSION LINE SAFETY AND NUISANCE</b>	None	Michael DeBortoli, NCPA	Submitted on Declaration	5 minutes	None

<b>TOPIC AREA</b>	<b>DISPUTES BETWEEN PARTIES</b>	<b>WITNESS</b>	<b>TESTIMONY SUMMARY</b>	<b>DIRECT TESTIMONY ESTIMATE</b>	<b>CROSS-EXAM ESTIMATE</b>
<b>VISUAL RESOURCES</b>	None	Joshua Hohn, CH2M Hill	Minor changes to Condition; Submitted on Declaration	5 minutes	None
<b>WASTE MANAGEMENT</b>	None	Sarah Madams, CH2M Hill	Submitted on Declaration	5 minutes	None
<b>WORKER SAFETY</b>	None	Sarah Madams, CH2M Hill	Submitted on Declaration	5 minutes	None
<b>FACILITY DESIGN</b>	None	Michael DeBortoli, NCPA	Minor changes to Equipment List; Submitted on Declaration	5 minutes	None
<b>GEOLOGY AND PALEONTOLOGY</b>	None	W. Geoffrey Spaulding, Ph.D., CH2M Hill	Minor change to condition, Submitted on Declaration	5 minutes	None
<b>POWER PLANT EFFICIENCY</b>	None	Edward Warner, NCPA	Submitted on Declaration	5 minutes	None
<b>POWER PLANT RELIABILITY</b>	None	Edward Warner, NCPA	Submitted on Declaration	5 minutes	None
<b>TRANSMISSION SYSTEM ENGINEERING</b>	None	Michael DeBortoli, NCPA	Minor changes to Condition, Submitted on Declaration	5 minutes	None

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
ALTERNATIVES	None	Edward Warner, NCPA	Submitted on Declaration	5 minutes	None

**PROPOSED EXHIBIT LIST**

**Table 2**

**LODI ENERGY CENTER (LEC) (08-AFC-10)**

<b>EXHIBIT NUMBER</b>	<b>DESCRIPTION</b>	<b>RELEVANT TOPIC AREA</b>
1	<b>Application for Certification Volume I &amp; II;</b> docketed 9-10-2008	All
2	<b>Table DR71-1 (Cooling Tower Parameters);</b> docketed 12-21-2009	Air Quality, Visual Resources
3	<b>Figure Identifying the LEC General Arrangement;</b> docketed 12-18-2009	Project Description
4	<b>Letter from the City of Lodi Regarding Removal of Condition VIS-2;</b> docketed 12-17-2009	Visual Resources
5	<b>Fogging Frequency Curve;</b> docketed 12-16-2009	Air Quality, Visual Resources
6	<b>NCPA's Comments on the Final Determination of Compliance;</b> dated 12-14-2009, docketed 12-15-2009	Air Quality
7	<b>Preliminary Endangerment Assessment;</b> dated 11-02-2009, docketed 12-15-2009	Waste Management, Worker Safety
8	<b>Preliminary Endangerment Workplan;</b> dated 11-02-2009, docketed 12-15-2009	Waste Management, Worker Safety
9	<b>Letter from Department of Toxic Substances Control (DTSC) Determination of No Further Action for the LEC Site;</b> dated 12-10-2009, docketed 12-15-2009	Waste Management

10	<b>NCPA's Comments on the Staff Assessment;</b> docketed 12-10-2009	Air Quality, Biological Resources, Cultural Resources, Hazardous Materials, Land Use, Soil & Water Resources, Traffic & Transportation, Transmission Line Safety & Nuisance, Visual Resources, Waste Management, Worker Safety, Facility Design, Geology & Paleontology, Power Plant Reliability, Transmission System Engineering
11	<b>San Joaquin Valley Unified Air Pollution Control District's Final Determination of Compliance;</b> docketed 11-19-2009	Air Quality
12	<b>NCPA's Withdrawal of PSD;</b> docketed 11-13-2009	Air Quality
13	<b>San Joaquin Council of Governments Minute Resolution 09-03;</b> dated 10-26-2009, docketed 10-28-2009	Biological Resources
14	<b>USFWS Response to NCPA's Request for Project Inclusion under the Intra-Service Biological &amp; Conference Opinion on Issuance of a Section 10(a)(1)(B);</b> dated 10-22-2009, docketed 10-26-2009	Biological Resources
15	<b>United States Environmental Protection Agency (EPA) Public Notice of Intent to Issue UIC Permit;</b> dated 1-16-2009, docketed 10-19-2009	Soil & Water Resources
16	<b>Department of Toxic Substances Control's Approval of Final Workplan for the Preliminary Endangerment Assessment;</b> docketed 9-03-2009	Waste Management

17	<b>NCPA's Lodi Energy Center BACT: Limit for CO;</b> docketed 8-24-2009	Air Quality
18	<b>Supplement D Air Quality Modeling Files;</b> docketed 7-28-2009	Air Quality
19	<b>Supplement D Changes to Equipment and Project Fenceline;</b> docketed 7-27-2009	Air Quality
20	<b>Comments from EPA Region 9 on the LEC PDOC;</b> dated 6-02-2009, docketed 6-03-2009	Air Quality
21	<b>Applicant Data Responses Set 6 – Responses to CEC Request 1 &amp; 2;</b> docketed 5-22-2009	Cultural Resources
22	<b>NCPA's Comments on the PDOC;</b> dated 5-18-2009, docketed 5-20-2009	Air Quality
23	<b>Data Response Set 5, Revised Responses to CEC Staff Data Requests 75 &amp; 78,</b> docketed 4-17-2009	Worker Safety & Fire Protection
24	<b>Meeting Agenda – NCPA Voluntary Cleanup Agreement;</b> docketed 4-16-2009	Waste Management
25	<b>San Joaquin Valley Unified Air Pollution Control District's Preliminary Determination of Compliance;</b> docketed 4-15-2009	Air Quality
26	<b>Objections by NCPA to CEC's Data Request Set 3;</b> docketed 4-15-2009	Cultural Resources
27	<b>Applicant Data Responses Set 4;</b> docketed 4-14-2009	Worker Safety & Fire Protection
28	<b>USACE Finding of No Water of the United States;</b> dated 3-19-2009, docketed 4-02-2009	Soil & Water Resources

29	<b>Data Response Set 3, Responses to CEC Staff Workshop Inquiries 3 through 27;</b> docketed 3-24-2009	Air (WSQ 19-27); Water (WSQ 3-11) Visual (WSQ 12-18)
30	<b>Supplement C – Natural Gas Supply Line Route Change;</b> docketed 3-19-2009	Project Description, Air Quality, & Land Use
31	<b>Data Responses Set 1C, Data Request 52 and 56;</b> docketed 3-02-2009	Waste Management
32	<b>NCPA’s Data Response Set 1B to Staff Data Request 13 &amp; 37;</b> docketed 2-19-2009	Cultural (DR 13) Water (DR 37)
33	<b>San Joaquin County Environmental Health Department (EHD) Comments Regarding Notice of Public Site Visit;</b> docketed 2-17-2009	Soil & Water Resources
34	<b>NCPA’s Data Response Set 2, Responses to CEC Staff Data Requests 56B-74;</b> docketed 2-16-2009	Air (DR 56B-64) Haz Mat (DR 65-70 and WSQ-1) Visual (DR 71-74) Water (WSQ-2)
35	<b>Data Response Set 1A (1 through 56);</b> docketed 2-05-2009	Bio (DR 1-9) Cul (DR 10-16) Geo (DR 17) Land Use (DR 18- 25) Reliability (DR 26), Water (DR 27-37) TSE (DR 38-47) Visual (DR 48-49) Waste (DR 50-56)
36	<b>Letter Regarding AFC for the NCPA Lecture Demonstration of Compliance with District Rule 4703;</b> docketed 1-14-2009	Air Quality
37	<b>Wetland Concerns – Technical Memorandum;</b> docketed 1-12-2009	Biological Resources

38	<b>Comment of Lodi Unified School District Re: Lodi Energy Center Project;</b> docketed 12-17-2008	Socioeconomics
39	<b>San Joaquin County Community Development Letter;</b> docketed 12-08-2009	Land Use
40	<b>USACE Finding of No Discharge to Waters of the US;</b> dated 10-28-2009, docketed 11-03-2008	Soil & Water Resources
41	<b>Supplement B – Data Adequacy Response;</b> docketed 10-24-2008	Air Quality, Biological Resources, Cultural Resources, Socioeconomics, Soils & Water Resources, Visual Resources, Transmission System and Engineering
42	<b>SJMSCP Response to Lead Agency Advisory Agency Notice to SJCOG, Inc.;</b> docketed 10-10-2008	Biological Resources
43	<b>Permit Application for Class 1 Underground Injection Well;</b> docketed 10-10-2008	Soils & Water Resources
44	<b>Email re San Joaquin County Environmental Health Department;</b> docketed 9-30-2008	Land Use, Waste Management
45	<b>Compliance Statement;</b> docketed 9-26-2008	Air Quality
46	<b>Air Quality Modeling Files;</b> docketed 9-10-2008	Air Quality
47	<b>Email message from Nancy Matthews to Brewster Birdsall and Matthew Layton,</b> transmitting CO emissions calculations, dated August 28, 2009.	Air Quality

48	<b>EPA Office of Enforcement and Compliance Assurance Guidance letter to Regions</b> regarding Guidance an Enforceability Requirements for Limiting Potential to Emit, January 25, 1995	Air Quality
49	<b>NCPA Testimony Package</b> , docketed December 22, 2009	All



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](http://WWW.ENERGY.CA.GOV)

APPLICATION FOR CERTIFICATION  
FOR THE *Lodi Energy Center*

Docket No. 08-AFC-10

PROOF OF SERVICE  
(Revised 2/17/09)

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DECLARATION OF SERVICE

I, Robert A Gladden, declare that on December 28, 2009, I served and filed copies of the attached **NCPA'S PRE-HEARING CONFERENCE STATEMENT** dated **December 24, 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](http://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](mailto:docket@energy.state.ca.us)

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

\_\_\_\_\_  
Robert A. Gladden