

Memorandum

Date: May 6, 2009
 Telephone: (916) 654-4894

To: Chairman Karen Douglas, Presiding Member
 Vice Chairman James D. Byron, Associate Member
 Ken Celli, Hearing Officer

DOCKET	
08-AFC-10	
DATE	MAY 06 2009
RECD.	MAY 06 2009

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

Subject: **LODI ENERGY CENTER PROJECT (08-AFC-10) STATUS REPORT 3**

Staff submits the following Status Report for the proposed Lodi Energy Center Project (LEC), pursuant to the Committee Scheduling Order dated January 21, 2009.

Current Issues and Activities for Resolution

Staff has been working through the discovery and analysis phase of the Northern California Power Agency's (NCPA's) proposed LEC project Application For Certification (AFC), which has included four sets of data requests and corresponding data responses, and an issues resolution/data request workshop. The fourth set of data requests were in the area of worker safety/fire protection. NCPA has responded to the fourth set, which staff is evaluating for the Preliminary Staff Assessment (PSA). Staff continues to work toward resolving the air quality, biological, cultural resources, and site contamination issues that are noted in this status report.

Notice of Preliminary Determination of Compliance (PDOC)

On April 20th, staff received the PDOC from the San Joaquin Valley Air Pollution Control District. Staff will review the document before preparing the draft air quality preliminary staff assessment. In addition, staff will evaluate greenhouse gas emissions to determine their impacts of the project. Because staff is in the midst of reviewing the PDOC, the original schedules publish date and workshop for the PSA must be changed. Staff has kept the applicant apprised of this situation and the need for a new project schedule.

Variance for Proposed Habitat Conservation Plan (HCP)

On April 29, 2009, NCPA presented its application for a variance from the proposed HCP to the San Joaquin Council of Governments' technical advisory committee (SJCOG – TAC). NCPA hopes to obtain approval from SJCOG in June for its proposed 30-foot buffer (for the giant garter snake), which will be located north of the canal. Though a 200-foot buffer is typically required for an HCP, NCPA is requesting a smaller buffer due to the project site's unique configuration.

Supplement - C Natural Gas Supply Line

SJCOG staff informed NCPA that a small section of the proposed natural gas pipeline route will enter Pacific Gas and Electric's (PG&E's) designated habitat conservation plan area, and will require mitigation. NCPA has stated that it will contact PG&E to address the concern raised by SJCOG.

The proposed natural gas supply line will also require trenching, and will enter Laydown Area C and the area just outside of the south end of Laydown Area B. NCPA must assess how much working space is required to install the pipeline while maintaining a 30-foot buffer.

Cultural Resources Data Request 13 Supplement

NCPA has filed an objection to Data Request # 13. As a result, Cultural Resources staff contacted NCPA and offered to provide the District 10 report (a Caltrans geoarchaeological study) and map to Dr. W. Geoffrey Spaulding, the applicant's geoarchaeological consultant. Staff also asked if Dr. Spaulding could suggest additional avenues (other than those posed by staff) to obtain answers to the questions in the Lodi Data Request #13 Supplement. NCPA is open to further discussions regarding this matter and both sides are attempting to resolve this issue.

Land Use (Project Site Contamination/Clean Up Efforts)

Waste Management technical staff has reviewed the preliminary soil sampling and analytical report for the project and has learned that the LEC site has been affected by previous site activities, including deposition of wastewater pond sludge and surface water runoff discharges from a nearby area.

Staff has encouraged NCPA to work closely with the Department of Toxic Substances Control (DTSC) to identify possible remedial options for site cleanup. Technical staff will monitor this activity between the parties, discuss this issue in the PSA waste management section, and develop appropriate conditions of certification.

NCPA has agreed verbally to cooperate with the city of Lodi, DTSC, and the Central Valley Regional Water Quality Control Board to clean up the contamination that exists at the project site. Cleanup is expected to take up to a year once the parties have signed a Memorandum of Understanding. NCPA will need to provide a schedule for cleanup prior to construction, which will be monitored by Energy Commission compliance staff.

Schedule

Staff requires sufficient time to review the PDOC and work through project concerns impacting some of the technical areas. Staff anticipates the publication of the PSA will occur by June 24, 2009 instead of May 2009. This scheduling change reflects a two-month delay from the publication date identified in the January 21, 2009 Committee Scheduling Order. Enclosed is the revised project schedule.

Committee's Schedule	Events or Filings
11/20/08	AFC data adequate
1/15/09	Informational Hearing and Site Visit
1/5/09	Staff transmits Data Request, Set 1
2/7/09	Applicant provides Data Responses, Set 1
2/19/09	Local, state and federal agency draft deter
2/4/09	Staff transmits Data Request, Set 2
2/23/09	Data Response and Issue Resolution Workshop 1
3/1/09	Parties file Status Report 1
3/17/09	Applicant provides Data Responses, Set 2
4/1/09	Parties file Status Report 2
4/15/09	SJVAQMD files PDOC
5/6/09	Parties file Status Report 3
6/24/09	Staff files Preliminary Staff Assessment (PSA)
7/8/09	PSA Workshop
7/31/09	Local, state and federal agency final determinations and Air District FDOC
9/2/09	Staff files Final Staff Assessment (FSA)
TBD	Evidentiary hearings*
TBD	Committee files proposed decision
TBD	Hearing on the proposed decision**
TBD	Committee files revised proposed decision*
TBD	Commission Decision*

TBD = To Be Determined

Note: This schedule assumes that there are no significant delays caused by completion of the PDOC or other unforeseen circumstances. Shaded items have been completed.



**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)**

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DECLARATION OF SERVICE

I, April Albright, declare that on May 6, 2009, I served and filed copies of the attached Lodi Energy Center Project (08-AFC-10) Status Report 3, dated May 6, 2009. The original documents, filed with the Docket Unit, are 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]**. 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:

- 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.

Original signed by _____
April Albright