Staff recommends that Soil & Water 4, as drafted and entered into the record on December 19, 2008, be revised to be consistent with the Commission's exclusive permitting authority for power plants. As the Warren-Alquist Act states, "The issuance of a certificate by the commission shall be in lieu of any permit ... required by any state, local or regional agency ...." (Pub. Resources Code § 25500.) Staff suggests the following changes to Soil & Water 4. Staff has contacted the applicant about the proposed revisions and understands the applicant concurs with them.

SOIL & WATER -4 - Prior to site mobilization and construction, the project owner shall submit grading plans containing all documentation and plans as normally required for the county's grading permit to the CBO for approval and to San Diego County for review and comment. The CBO shall consider County input, if provided, before deciding whether to approve the grading plans. All grading plans and documentation shall be consistent with the project DESCP and the SWPPPS developed in compliance with the project conditions of certification and the NPDES permit for construction and industrial activities.

Verification - At least 90 days prior to the start of site mobilization, the project owner shall submit grading plans containing all documentation and plans as normally required for the county's grading permit to the CBO and to San Diego County. Project mobilization and construction shall not proceed until the CBO has reviewed and approved the grading plans.

ORIGINAL

SOIL & WATER-4: Prior to site mobilization and construction, the project owner shall submit a grading packet to the county of San Diego containing all documentation, plans, and fees normally required for the county's grading permit, with copies to the CPM. Project mobilization and construction shall not proceed until the county of San Diego issues an approval document, equivalent to the county's grading permit, and the CPM provides written concurrence.
Verification: At least 90 days prior to the start of site mobilization, the project owner shall submit a grading packet to the San Diego County Department of Public Works containing all documentation, plans, and fees normally required for the county's grading permit. Copies of all documents and information submitted by the project owner to the city, and any correspondence and permitting document(s) or approvals received by the project owner, shall be provided to the CPM within 10 days of submittal or receipt by the project owner. All grading plan and permit equivalent requirements or recommendations shall be consistent with the project DESCP and the SWPPPs developed in compliance with the project conditions of certification and NPDES permits for construction and industrial activities. Project mobilization and construction shall not proceed until the required San Diego County grading permit equivalent document is issued by the county and the CPM provides written concurrence.

Date: January 30, 2009

Respectfully submitted,

/s/

JARED BABULA
Senior Staff Counsel
California Energy Commission
1516 9th Street, MS-14
Sacramento, CA 95814
Ph: (916) 654-3959
E-mail: jbabula@energy.state.ca.us
INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-4
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT
Stephen Thome
J-Power USA Development
1900 East Golf Road, Suite 1030
Schaumberg, IL 60173
sthome@jpowerusa.com

Mike Dubois
J-Power USA Development
1900 East Golf Road, Suite 1030
Schaumberg, IL 60173
mdubois@jpowerusa.com

COUNSEL FOR APPLICANT
Jane Luckhardt
Downey Brand, LLP
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

Wayne Song
Morgan, Lewis & Bockius LLP
300 S Grand Avenue, 22nd Floor
Los Angeles, CA 90071
wsong@morganlewis.com

APPLICANT CONSULTANT
Joe Stenger, PG. REA
TRC
2666 Rodman Drive
Los Osos CA 93402
jstenger@trcsolutions.com

INTERESTED AGENCIES
California ISO
P.O. Box 639014
Folsom, CA 95763-9014
e-recipient@caiso.com
DECLARATION OF SERVICE

I, Pamela Guinn, declare that on 1/29/08, I deposited copies of the attached Amended Condition of Certification in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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

[Signature]

Attachments