

April 22, 2008

Chris Davis
Compliance Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Subject: Starwood Power-Midway, LLC Peaking Project Amendment (06-AFC-10),
Amendment No. 1
URS Project No. 27656131

Dear Mr. Davis:

On behalf of Starwood Power-Midway, LLC, URS Corporation Americas (URS) hereby submits Amendment No. 1 for the Starwood Power-Midway Project.

I certify under penalty of perjury that the foregoing is true, correct, and complete to the best of my knowledge. I also certify that I am authorized to submit Amendment No.1 for the Starwood Power-Midway Project on the behalf of Starwood Power-Midway, LLC.

Sincerely,

URS CORPORATION

Angela Leiba
Project Manager

AL:ml



**STARWOOD POWER-MIDWAY, LLC PEAKING PROJECT
(06-AFC-10)
AMENDMENT No. 1**

**SUBMITTED TO THE
CALIFORNIA ENERGY COMMISSION
APRIL 2008**



**SUBMITTED BY
STARWOOD POWER-MIDWAY, LLC**

WITH SUPPORT FROM

URS

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EXECUTIVE SUMMARY

Starwood Power-Midway, LLC hereby petitions for a proposed incremental change to the Starwood Power-Midway, LLC Peak Project Midway 2006 AFC (06-AFC-10). Starwood Power-Midway, LLC is proposing an incremental change to the Midway 2006 AFC that includes the addition of an on site ground water well, minor modifications to the site plan and slight equipment relocation adjustments as shown in Figure 1-1.

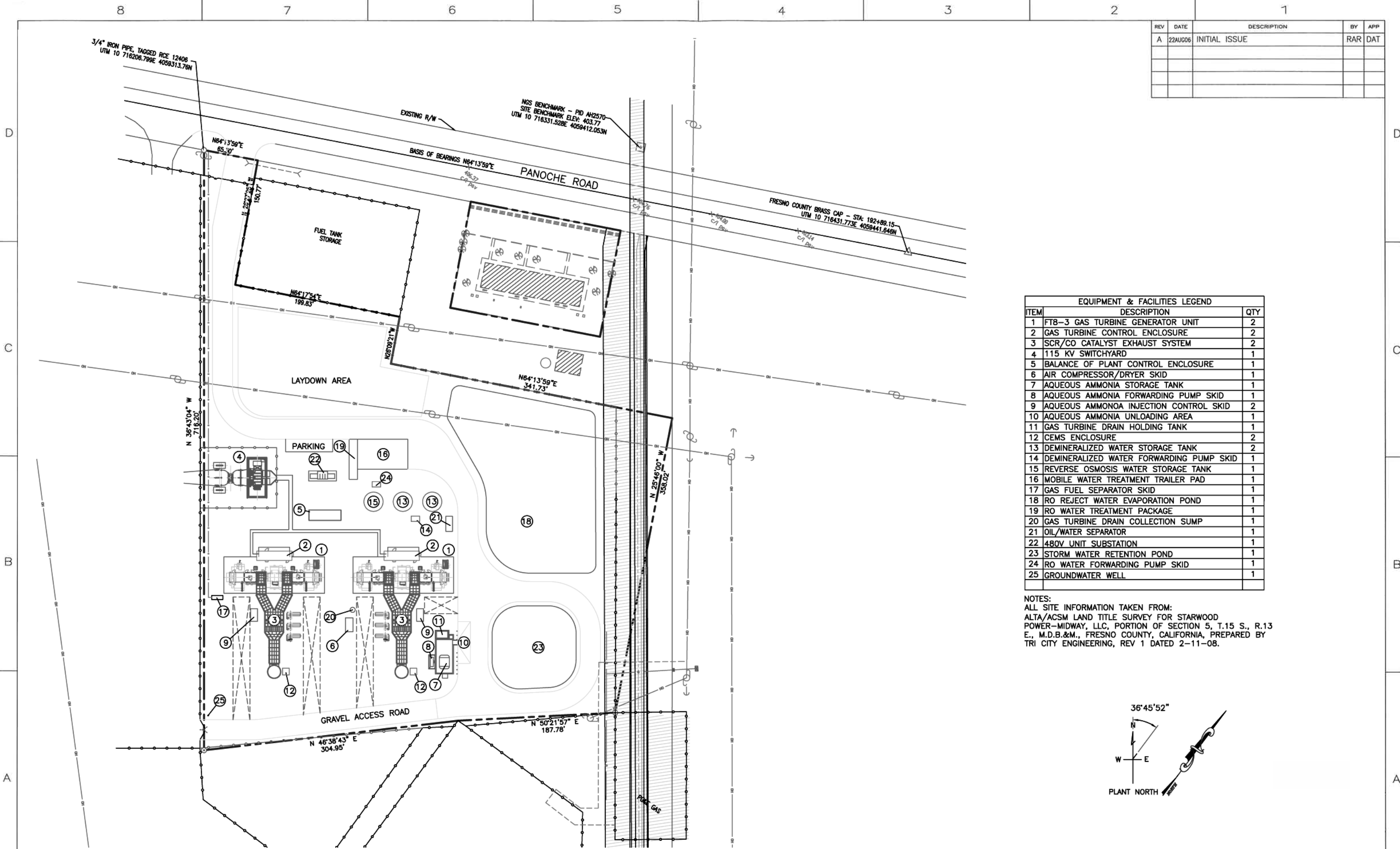
The Starwood Power-Midway, LLC Peak Project (Midway) is a simple-cycle electric generating facility. Once constructed, the facility will utilize two (2) FT8-3 SwiftPac Combustion Turbine Generator (CTG) units installed in a simple-cycle power plant arrangement. The Midway Project is located on a 5.6 acre site within Fresno County, located adjacent to the Panoche Hills and east of the San Benito County line. It is approximately 50 miles west of the City of Fresno and approximately 2 miles east of Interstate 5 (I-5).

The proposed incremental change to the Midway Project Site footprint is still within the same 5.6 acre site as stated in the Midway 2006 AFC. The proposed incremental change will reconfigure the reverse osmosis (RO) pond and the stormwater retention pond on-site. Along with the pond reconfiguration, a groundwater well is proposed as a back up water supply source in order provide the Project with adequate water supply to be consistent with the PG&E Power Purchase Agreement (PPA). Reconfiguration of the ponds and minor equipment location adjustments are due in part to Pacific Gas and Electric (PG&E) gas line easements located on the east boundary of the Midway Project Site.

In addition, the revised site plan for the Midway Project includes changes to the access road, construction laydown area, and the parking area.

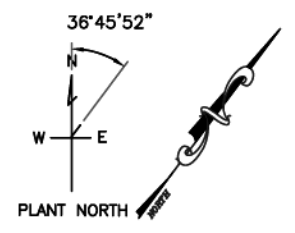
The proposed incremental change to the Midway Project is designed and structured to assure compliance with CEC Siting Regulations (California Code of Regulations [CCR] Title 20, Section 1769, Post Certification Amendments and Changes). This Amendment includes seven (7) sections that address specific requirements set forth by the CEC. Section 1.0 provides an overview of the proposed incremental change to the Midway Project and review of the ownership of the Project, the necessity for the proposed change, and the consistency of the changes with the Commission Decision certifying the facility. Section 2.0 provides a complete description of the proposed modifications, including updated drawings. Section 3.0 assesses the potential environmental effects of the proposed project changes in terms of 16 environmental discipline areas. This assessment indicated the adoption of the Amendment will not result in any significant, unmitigated adverse environmental impacts. In addition, the Midway Project will continue to comply with all applicable laws, ordinances, regulations and standards (LORS). The findings contained in the Midway 2006 AFC and the CEC Conditions of Certifications contained in the January 2008 Final Commission Decision are still applicable to this Amendment. All proposed modifications to the Conditions of Certification are located in Section 4.0.

REV	DATE	DESCRIPTION	BY	APP
A	22AUG06	INITIAL ISSUE	RAR	DAT



EQUIPMENT & FACILITIES LEGEND		
ITEM	DESCRIPTION	QTY
1	FTB-3 GAS TURBINE GENERATOR UNIT	2
2	GAS TURBINE CONTROL ENCLOSURE	2
3	SCR/CO CATALYST EXHAUST SYSTEM	2
4	115 KV SWITCHYARD	1
5	BALANCE OF PLANT CONTROL ENCLOSURE	1
6	AIR COMPRESSOR/DRYER SKID	1
7	AQUEOUS AMMONIA STORAGE TANK	1
8	AQUEOUS AMMONIA FORWARDING PUMP SKID	1
9	AQUEOUS AMMONIA INJECTION CONTROL SKID	2
10	AQUEOUS AMMONIA UNLOADING AREA	1
11	GAS TURBINE DRAIN HOLDING TANK	1
12	CEMS ENCLOSURE	2
13	DEMINERALIZED WATER STORAGE TANK	2
14	DEMINERALIZED WATER FORWARDING PUMP SKID	1
15	REVERSE OSMOSIS WATER STORAGE TANK	1
16	MOBILE WATER TREATMENT TRAILER PAD	1
17	GAS FUEL SEPARATOR SKID	1
18	RO REJECT WATER EVAPORATION POND	1
19	RO WATER TREATMENT PACKAGE	1
20	GAS TURBINE DRAIN COLLECTION SUMP	1
21	OIL/WATER SEPARATOR	1
22	480V UNIT SUBSTATION	1
23	STORM WATER RETENTION POND	1
24	RO WATER FORWARDING PUMP SKID	1
25	GROUNDWATER WELL	1

NOTES:
 ALL SITE INFORMATION TAKEN FROM:
 ALTA/ACSM LAND TITLE SURVEY FOR STARWOOD
 POWER-MIDWAY, LLC, PORTION OF SECTION 5, T.15 S., R.13
 E., M.D.B.&M., FRESNO COUNTY, CALIFORNIA, PREPARED BY
 TRI CITY ENGINEERING, REV 1 DATED 2-11-08.



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 ENERGY SERVICES, INC., AND IS NOT TO BE
 USED, IN WHOLE OR IN PART, FOR ANY OTHER
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 OF ENERGY SERVICES, INC.

SECTION 1 INTRODUCTION

1.1 OVERVIEW OF AMENDMENT

Starwood Power-Midway, LLC hereby petitions for a proposed incremental change to the Starwood Power-Midway, LLC Peak Project 2006 AFC (06-AFC-10). Starwood Power-Midway, LLC is proposing an incremental change to the Midway 2006 AFC that includes the addition of an on site ground water well, minor modifications to the site plan and slight equipment relocation adjustments described in Section 2.0, Project Description. The proposed incremental change to the Starwood Power-Midway, LLC Peak Project will be referred to in this document as the “proposed incremental change to the Midway Project”. The Starwood Power-Midway, LLC Peak Project certified by the CEC in January 2008 will be referred to in this document as “Midway” or the “Midway Project.”

The proposed incremental change to the Midway Project contains all of the information that is required pursuant to the California Energy Commission’s (CEC or Commission) Siting Regulations (California Code of Regulations [CCR] Title 20, Section 1769, Post Certification Amendments and Changes). The information necessary to fulfill the requirements of Section 1769 is contained in Sections 1.0 through 7.0 as summarized in Table 1-1.

**Table 1-1
Informational Requirements For Post-Certification Amendments And Changes**

Section 1769(a)(1) Requirement	Section(s) of Petition Fulfilling Requirement
(A) A complete description of the proposed modifications, including new language for any conditions that will be affected.	Section 2.0 – Proposed modifications Section 3.1 to 3.16 – Proposed changes to conditions of certifications, where necessary, are located at the end of each technical section.
(B) A discussion of the necessity for the proposed modifications.	Section 2.2
(C) If the modification is based on information that was known by the petitioner during the certification proceeding, an explanation why the issue was not raised at that time.	Section 1.3
(D) If the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, an explanation of why the change should be permitted.	Sections 1.4
(E) An analysis of the impacts the modification may have on the environment and proposed measures to mitigate any significant adverse impacts.	Section 3.1 to 3.16
(F) A discussion of the impact of the modification on the facility’s ability to comply with applicable laws, ordinances, regulations, and standards.	Section 3.1 to 3.16
(G) A discussion of how the modification affects the public.	Section 5.0

**Table 1-1
Informational Requirements For Post-Certification Amendments And Changes
(Continued)**

Section 1769(a)(1) Requirement	Section(s) of Petition Fulfilling Requirement
(H) A list of property owners potentially affected by the modification.	Section 6.0
(I) A discussion of the potential effect on nearby property owners, the public and the parties in the application proceedings.	Section 7.0

1.2 SUMMARY OF ENVIRONMENTAL IMPACTS

The CEC Siting Regulations require that an analysis be conducted to address the potential impact the proposed incremental change to the Midway Project may have on the environment and proposed measures to mitigate any potentially significant adverse impacts (Title 20, CCR, Section 1769 [1][a][E]). The regulations also require that a discussion of the impact of the proposed incremental change to the Midway Project on the facility's ability to comply with the applicable Laws, Ordinances Regulations and Standards (LORS) (Section 1769 [1][a][F]). Section 3.0 of this Amendment includes a discussion of the potential environmental impacts associated with the proposed incremental change to the Midway Project as well as a discussion of the consistency of the modification to the LORS. For environmental discipline areas affected by the proposed modifications, Section 3.0 also includes any information necessary to update environmental baseline information to reflect significant changes in baseline conditions that may have occurred between the time information submitted previously in support of the application was developed and the present. Section 3.0 concludes that there will be no significant environmental impacts associated with implementing the actions specified for the proposed incremental change to the Midway Project and that the Midway Project will remain in compliance with all applicable LORS.

1.3 EXPLANATION FOR MODIFICATION

The Siting Regulations require a discussion of whether the modification for the proposed incremental change to Midway Project is based on information known by the Petitioner during the certification proceeding (Title 20, CCR, Sections 1769 [a][1][C]).

The primary water source, the agricultural backwash pond, is located on the Baker Farmers Company property. The backwash collection system will collect approximately 160 AFY of back wash water. In any single year the project can use 50% of the collected amount and more if needed as long as on a rolling three-year average the quantity consumed does not exceed 50% of the collected amount (see CEC Condition of Certification Water Resources-3 for the Midway Project). The proposed on-site ground water well will provide a backup supply to the backwash filter water in case the quantity of backwash water available is not sufficient to meet the Midway Project's operating needs. This backup water supply was originally approved (see CEC Condition of Certification Water Resources-1 for the Midway Project) to be supplied from the adjacent facility, CalPeak Panoche. The CalPeak Panoche project was approved by the California Public Utilities Commission (CPUC) and modifications to that approval require

agreement with the land owner, PG&E, and approval of the modification by the CPUC. In addition CalPeak Panoche is located on PG&E leased property and the Midway Project owners decided to seek to control of the backup water supply for the life of the Midway Project by including it on the Midway site.

The Petitioner was not aware of the PG&E easements located on the east boundary of the Midway site. In order to avoid the easements the site plan was revised and that included minor equipment location adjustments and reconfiguration of the RO and stormwater ponds. In regards to the reconfiguration of the RO and stormwater ponds, the Petitioner did not anticipate the lengthy process involved with modifying the PG&E easements through the California Public Utilities Commission.

1.4 CONSISTENCY OF AMENDMENT WITH LICENSE

The CEC Siting Regulations also require a discussion of whether the modifications are based upon new information that changes or undermines the assumptions, rationale, findings, or bases of the final decision (Title 14, CCR Section 1769 [a][1][D]). If the Midway Project is no longer consistent with the certification, the Project must provide an explanation why the modification should be permitted.

The proposed incremental change to the Midway Project does not undermine the assumptions, rational, findings, or other bases of the final decision for the Midway 2006 AFC by the CEC.

SECTION 2 DESCRIPTION OF PROPOSED AMENDMENT**2.1 STARWOOD POWER-MIDWAY, LLC PEAKING PROJECT**

This section includes a complete description of the proposed incremental change to the Starwood Power–Midway, LLC Peaking Project (Midway).

2.2 MIDWAY

The Midway Project is approximately 50 miles west of the City of Fresno and approximately 2 miles east of Interstate 5 (I-5). It is located within Fresno County adjacent to the Panoche Hills and east of the San Benito County line. It is a simple-cycle electric generating facility. The proposed facility will include two (2) FT8-3 SwiftPac Combustion Turbine Generator (CTG) units installed in a simple-cycle power plant arrangement. The gas turbines are equipped with a water injection system to reduce production of nitrous oxides (NO_x), a selective catalytic reduction system (SCR) with 19% aqueous ammonia to further reduce NO_x emissions, and an oxidation catalyst to reduce carbon monoxide (CO) emissions. The nominal plant power rating will be 120 megawatts (MW).

The proposed incremental change to the Midway Project will still be within the original proposed 5.6 acre project site. The proposed incremental change includes a new groundwater well on-site, minor modifications to the site plan and slight equipment relocation adjustments. The proposed incremental change will reconfigure the location of the reverse osmosis (RO) pond and the stormwater retention pond. The basis for the site plan redesign and reconfiguration of the RO and the stormwater retention ponds is to avoid PG&E gas line easements located on the east side of the Project site. Modifications to the equipment location will also be needed due to the revised site plan, reconfiguration of the ponds and the selection of actual equipment procured for the proposed incremental change to the Midway Project.

A plot plan illustrating the revised site plan and modifications is provided as Figure 1-1. Also, a revised architectural rendering showing the Project after construction is provided as Figure 1-2.

2.3 EQUIPMENT ADDITIONS OR SUBTRACTIONS

The following is a list of the site plan modifications that will be changed by the proposed incremental change to the Midway Project.

- 1) One (1) aqueous ammonia tank has been eliminated to improve site safety and improve turnover of ammonia inventory.
- 2) A RO water forwarding pump skid has been added to the site plan. This item was originally included in the RO pad equipment on the old site plan. It is now a separate piece of equipment on the revised site plan. The addition of this pump will take water from the RO tanks and supply it to the mobile water demineralizer equipment.
- 3) A groundwater well has been added in order to provide an on-site backup supply of water. The primary water supply, the backwash collection system, will collect approximately 160 AFY of backwash water. In any single year the project can use 50% of the collected amount

and more if needed as long as on a rolling three-year average the quantity consumed does not exceed 50% of the collected amount (see CEC Condition of Certification Water Resources-3 for the Midway Project). The on-site ground water well will provide a backup supply to the backwash filter water in case the quantity of backwash water available is not sufficient to meet the Midway Project's operating needs. The new well will be 8" in diameter, 400 +/- feet deep with a pump capacity of 200 GPM. It is located in the southwest corner of the property with seals at 16 ft. and 200ft. This is the same semi-confined upper aquifer that the CalPeak well draws from.

The original groundwater well to be used as the back up water supply is located on the adjacent CalPeak Panchoe site. The water line connecting the Midway Project site to the well located on the CalPeak Panchoe site has been deleted on the revised site plan. The decision to add a new well on-site was made to avoid the lengthy process of modifying the existing PG&E CPUC approval of the CalPeak Panoche project. The CalPeak Panoche project was approved by the CPUC and any changes to this approval requires negotiations with the land owner, PG&E, and submittal to the CPUC for approval of those changes. The CalPeak Panoche site is leased from PG&E and moving the groundwater well to the Midway site will also provide control over the well and backup water supply for the life of the Midway Project.

2.4 REVISIONS AND CHANGES TO PROJECT ELEMENTS

The following is a description of the proposed incremental change to the Midway Project (refer to Figure 1-1, Revised Site Plan):

- 1) The stormwater retention pond (Item #23) and RO pond (Item #18) configuration was modified to avoid PG&E gas line easements located on the east side of the Project site. The ponds were resized due to the expected quality of the RO reject water.
 - a. The revised stormwater pond depth is 6ft, total volume is 37,000 cubic feet, the bottom surface area is 3,540 sq. ft. and top surface area is 8,860 sq. ft.
 - b. The revised RO pond depth is 6ft, total volume is 133,000 cubic feet, the bottom surface area is 14,500 sq. ft. and top surface area is 29,600 sq. ft.
- 2) The gravel or paved access road was modified to account for the reconfiguration of the ponds and to avoid high voltage (HV) transmission pole located in the middle of the site as indicated by the latest Tri-City survey. A gravel road was added to the south side of the units for a secondary path of egress from the site to address permit requirements.
- 3) The construction lay down area has been increased from 11,050 sq. ft. to 20,000 sq. ft within the revised site plan.
- 4) The parking area length has been reduced to 70 ft. from 110ft. The location of the parking area has also been repositioned. It is now located south of the construction lay down area and north of the 480v Unit Substation on the revised site plan.

2.5 NEW EQUIPMENT LOCATIONS

Provided below is a list of the proposed changes to equipment locations on-site (refer to Figure 1-1, Revised Site Plan):

- 1) Combustion Turbine Generator (CTG) Packages (Item #1 on revised site plan): Unit 1 has been shifted west approximately 19 ft. Both Units has been shifted 5 ft. south. This will increase the space between the CTG units for long-term maintenance of the equipment and allow the installation of underground electrical duct banks.
- 2) SCR/RP catalyst exhaust system (Item #3): Due to the decision to procure the latest design of catalyst systems, the ducting flow path for the revised site plan is wider by about 4 ft. and is shorter by about 6 ft. The revised design will be optimized for the FT8-3 engines exhaust flow (Item #1).
 - a. The CTG Unit 1 exhaust stack has been shifted west approximately 19 ft to reflect the CTG Unit 1 relocation. Also to reflect the relocation of the CTG Units, both Unit 1 and Unit 2 exhaust stacks has been shifted south approximately 16 ft. and increased the exhaust silencer size to ensure proper acoustic performance.
 - b. The CTG exhaust stack height of each unit has been changed to meet the 40 CRF Part 60 requirements for EPA test port locations. The stack height was increased from 50 ft. to 68 ft. This revised ductwork design will help avoid pockets where natural gas could accumulate, ensuring purging in accordance with the latest NFPA 85 Code (2007 Edition).
 - c. The exhaust stack diameter as stated in the Midway 2006 AFC will have a diameter of 15'. For clarity, the stacks will have an outside diameter of 15' with an inside diameter of 14'-8". The stacks will be insulated and lined to avoid the painting and safety issues with existing stacks.
- 3) The CEMS enclosures (Item #12) were shifted with the exhaust stacks to remain adjacent to the stacks in order to limit the length of sampling tubing and ensure proper sampling rates of exhaust gases. The CTG Unit 1 CEMS moved south approximately 24 ft and west 15 ft. and the CTG Unit 2 CEMS moved south by approximately 24 ft.
- 4) BOP control enclosure (Item #5) has been shifted north approximately 17 ft. This modification was based on detailed design to avoid a 15kV trench and increase space for underground duct banks.
- 5) The air compressor skid (Item# 6) has been rotated 90 degrees. Modification is based on the detailed design for improved routing of piping to interfaces on skid and to avoid interference with underground duct banks.

- 6) One of the aqueous ammonia tanks has been eliminated as stated above in Section 2.3. The remaining aqueous ammonia tank (Item #7) has been shifted 12 ft. north to be consistent with existing CalPeak Panoche and Starwood facilities.
- 7) The Aqueous Ammonia Unloading Area (Item #10) has been reduced to accommodate one tank, as stated above to be consistent with other existing CalPeak and Starwood facilities.
- 8) The Gas Turbine (GT) Holding Tank (Item #11) has been shifted 34 ft. to provide maintenance access to GT #2A. GT #2A is a designated area on the east side of the CTG unit. This area is located between the CTG Unit (Item #1 on site plan) and the GT Drain Holding Tanks (Item #11). This will allow adequate space for a crane to be located next to the GT enclosure for engine removal.
- 9) The Demineralized (Item #13) and RO water storage tank (Item #15) order has been changed to improve the arrangement of the system piping.
- 10) Demineralized Water Forwarding Pump Skid (Item #14) has been shifted east and its size reduced to reflect the detailed design and to improve arrangement of the system piping.
- 11) The Mobile Water Treatment Trailer Pad (Item #16, but referred to as DI trailer pad on old site plan) has been reduced in size and will be shifted west approximately 50 ft. Based on the detailed design; the pad is sized to handle two trailers at once. The pad being shifted west was due to rerouting of the access road and pond reconfigurations.
- 12) The Gas Fuel Separator Skid (Item #17) has been rotated 90 degrees to better improve routing system piping.
- 13) The concrete pad for the RO Water Treatment Package (Item #19) has been increased to 10' x 48' based on ESI best estimate of package size. However, this will be finalized when procured by Owner and designed by selected vendor during the detailed design phase.
- 14) The Gas Turbine Drain Collection Sump (Item #20) has been shifted east and reduced in size to avoid interference with underground duct banks.
- 15) The Oil/Water Separator (Item #21) has been relocated northeast of CTG Unit 2 to better improve routing system piping.
- 16) The 480v Unit Substation (Item #22, but referred to as Auxiliary Transformer on old site plan) has been reconfigured to include the auxiliary transformers as well as switchgears for the 480v power distribution and was shifted north. However, this will not be finalized until equipment is procured and vendor drawings received.

2.6 PROCESS DESCRIPTION

The power generation process description in the Midway 2006 AFC (06-AFC-10) remains unchanged.



STARWOOD POWER - MIDWAY, LLC PEAKING PROJECT

Figure 1-2

ARCHITECTURAL RENDERING
OF THE PROJECT SITE
AFTER CONSTRUCTION

2008

SECTION 3 ENVIRONMENTAL ANALYSIS OF THE PROJECT CHANGES

The proposed incremental change to the Midway Project contains all the information that is required pursuant to the CEC's Siting Regulations (CCR Title 20, Section 1769, Post Certification Amendments and Changes). Per Section 1769(a)(1)(E) the following sections provide an environmental analysis for each of the 16 different discipline areas as indicated below.

The environmental disciplines are addressed in the same order as the Midway 2006 AFC (06-AFC-10), as follows:

- 3.1 Air Quality
- 3.2 Geologic Hazards and Resources
- 3.3 Agriculture and Soils
- 3.4 Water Resources
- 3.5 Biological Resources
- 3.6 Cultural Resources
- 3.7 Paleontological Resources
- 3.8 Land Use
- 3.9 Socioeconomics
- 3.10 Traffic and Transportation
- 3.11 Noise
- 3.12 Visual Resources
- 3.13 Waste Management
- 3.14 Hazardous Materials
- 3.15 Public Health and Safety
- 3.16 Worker Safety

None of the environmental disciplines would be significantly impacted by the proposed incremental change to the Midway Project.

3.1 AIR QUALITY

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.2, Air Quality, of the Midway 2006 AFC (06-AFC-10).

3.1.1 Environmental Baselines

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.1.2 Environmental Consequences

The proposed incremental change to the Midway Project includes installation of a groundwater well on-site to provide a backup water source for facility operations. This is the only change to construction activity that would materially alter the air pollutant emission levels reported in the Midway 2006 AFC. The proposed on-site well would be drilled concurrently with other Project construction activities and would thus represent an incremental increase in emissions. The anticipated well depth is 400 feet, and the expected duration of the drilling activity is five days. The fueled equipment required to accomplish the well drilling task is expected to include the following:

- One drill rig (500 horsepower) operating 12 hours per day for five days.
- One backhoe (250 horsepower) operating 5 hours per day for five days.
- One water truck (250 horsepower) operating 4 hours per day for five days.

Based on Off-road Mobile Source Emission Factors (2006-2020) provided by the California Air Resources Board (CARB) and the equipment operating profiles shown above, the total incremental increase of exhaust emissions from well drilling were calculated. Fugitive dust emissions associated with this activity were also estimated, based on factors from Table A9-9-D of the South Coast Air Quality Management District (AQMD) CEQA Air Quality Handbook and conservative assumptions regarding the extent of movement for the mobile equipment. As shown in Table 3.1-1, the resulting emissions of criteria pollutants would represent a small incremental increase above those of concurrent construction activities that were reported in the Midway 2006 AFC and the responses to subsequent CEC data requests.

**Table 3.1-1
Estimated Emissions from Water Well Drilling**

Emission Source	Total Pollutant Emissions (pounds)					
	PM ₁₀	PM _{2.5}	CO	VOC	NO _x	SO _x
Equipment exhaust	6.65	6.12	54.52	17.04	203.43	0.27
Fugitive dust	6.99	1.48				
Total for Drilling Activity	13.65	7.60	54.52	17.04	203.43	0.27

For Project operations, the only proposed incremental change with the potential to affect the Midway 2006 AFC evaluation of Project impacts to air quality are the proposed changes to the locations and dimensions of the new gas turbine stacks. The specific changes are:

- Exhaust Stack 1 will be moved with the entire Unit 1 generating package 19 feet west of the previously permitted location.
- Both Exhaust Stacks 1 and 2 will be moved 16 feet south of the previously permitted location, based on detailed design of the selected equipment and an increase in exhaust silencer size to ensure proper acoustic performance.
- The height of both Exhaust Stacks 1 and 2 will be increased from 50 feet to 68 feet above local grade, based on ductwork design and to locate sampling ports in accordance with the requirements of 40 CFR Part 60.

These proposed incremental changes would not effect the operational emissions of any criteria pollutant or toxic air contaminant or the flow rate of turbine exhaust to the atmosphere. Given that the gas turbines are the only stationary sources of toxic air contaminants associated with Project operations, and the fact that the nature of the proposed incremental changes would decrease off-site impacts from these sources, it was concluded that the health risk assessment modeling presented in the Midway 2006 AFC does not need to be repeated. CEC air quality staff were contacted to determine whether the inclusion of additional modeling for air quality and public health was unnecessary for this Amendment. Mr. Will Walters responded by e-mail to John Lague of URS on March 31, 2008 and confirmed that re-modeling would result in negligible changes to the air quality and health risk assessment modeling results reported in the Midway 2006 AFC. Therefore the assessment of environmental consequences presented in the Midway 2006 AFC is adequate to represent Project impacts to public health and safety with the proposed incremental change to the Midway Project.

3.1.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change the findings and conclusions discussed in Section 5.2, Air Quality, of the Midway 2006 AFC. No increased impacts to air quality would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended.

3.1.4 Cumulative Impacts

The proposed incremental change to the Midway Project would not appreciably change the impacts of Midway Project operations on air quality. Under these circumstances, it is concluded that the discussion and conclusions in the AFC regarding the cumulative impacts of the project are unchanged.

3.1.5 Compliance with LORS

Table 3.1-2 presents data on all applicable LORS which affect the proposed incremental change to the Midway Project. LORS which were identified as “not applicable” to the Amendment were not included in this listing. The table delineates the LORS citation, agency responsible for compliance or oversight,

basic LORS requirements, and the compliance strategy. The required discussion of conformance with individual applicable requirements is contained in this table.

**Table 3.1-2
LORS Applicable to Air Quality**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
40 CFR Part 50	US EPA SJVAPCD	NAAQS	Air dispersion modeling presented in this section demonstrates that the proposed incremental change will not cause any new violations of the NAAQS nor contribute significantly to any existing violations.
40 CFR Part 52.21	US EPA	PSD	PSD program not applicable to this proposed incremental change.
40 CFR Part 73	US EPA SJVAPCD	Acid rain Program	Facility will apply for acid rain permit.
40 CFR Part 60 Subpart GG	US EPA SJVAPCD	NSPS	Emissions associated with the proposed incremental change will more than meet NSPS requirements for gas turbines.
40 CFR Part 70	US EPA SJVAPCD	Federally mandated operating permits.	Facility will apply for Title V permit.
State			
Title 17, California Code of Regulations	CARB SJVAPCD	CAAQS	Air dispersion modeling presented in this section demonstrates that the proposed incremental change will not cause any new violations of the CAAQS nor contribute significantly to any existing violations.
California Administrative Code, Title 14, Section 15002(a)(3)	CEC	Power plant siting requirements.	This Amendment is submitted in compliance with Title 14 requirements.
California Health and Safety Code Section 4430	US EPA SJVAPCD	Air toxics "Hot Spots" emission inventory.	Project air toxics emissions associated with the proposed incremental change are presented in the Public Health and Safety section of this Amendment.
Local			
SJVAPCD Regulation I, Rule 1080	SJVAPCD	Stack Monitoring.	The proposed incremental change will comply with stack testing requirements of this Rule and CEC/SJVAPCD conditions of certification.

**Table 3.1-2
LORS Applicable to Air Quality
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
SJVAPCD Regulation I, Rule 1081	SJVAPCD	Source Sampling.	The proposed incremental change will comply with stack testing requirements of this Rule and CEC/SJVAPCD conditions of certification.
SJVAPCD Regulation I, Rule 1100	SJVAPCD	Equipment breakdown.	The proposed incremental change will comply with stack testing requirements of this Rule and CEC/SJVAPCD conditions of certification.
SJVAPCD Regulation II, Rule 2010	SJVAPCD	Permits required.	SJVAPCD has issued a final determination of compliance, and the the proposed incremental change will obtain a Permit to Operate upon completion of construction and demonstrations of compliance with all applicable District rules.
SJVAPCD Regulation II, Rule 2201	SJVAPCD	New and modified stationary source review.	The air quality analyses presented in this section have been conducted in compliance with this Rule.
SJVAPCD Regulation II, Rule 2520	SJVAPCD	Federally mandated Operating Permits.	Facility will apply for Title V permit.
SJVAPCD Regulation III, Rule 3010/3020	SJVAPCD	Permit fees/fee schedules.	Facility will pay all fees in accordance with schedules in this Rule.
SJVAPCD Regulation III, Rule 3110	SJVAPCD	Air toxics fees.	Facility will pay all fees in accordance with schedules in this Rule.
SJVAPCD Regulation III, Rule 3135	SJVAPCD	Dust control plan fee.	Facility will prepare the dust control plan and pay the required fee.
SJVAPCD Regulation III, Rule 3170	SJVAPCD	Federally mandated ozone non-attainment fee.	Facility will pay all fees pursuant to this rule, as applicable.
SJVAPCD Regulation IV, Rule 4001	SJVAPCD	New Source Performance Standards.	Emissions associated with the proposed incremental change will more than meet NSPS requirements for gas turbines.
SJVAPCD Regulation IV, Rule 4002	SJVAPCD	National Emission Standards for Hazardous Pollutants.	Emissions of HAPs associated with the proposed incremental change will not be high enough to trigger NESHAPs standards.
SJVAPCD Regulation IV, Rule 4101	SJVAPCD	Visible Emissions.	Project sources burning natural gas will comply with this Rule.

**Table 3.1-2
LORS Applicable to Air Quality
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
SJVAPCD Regulation IV, Rule 4102	SJVAPC	Nuisance.	Emissions associated with the proposed incremental change will not cause a public nuisance.
SJVAPCD Regulation IV, Rule 4201	SJVAPC	Particulate matter concentrations.	Particulate emissions from natural gas combustion will comply with this Rule.
SJVAPCD Regulation IV, Rule 4301	SJVAPC	Fuel burning equipment.	Emissions associated with the proposed incremental change will comply with this Rule.
SJVAPCD Regulation IV, Rule 4703	SJVAPC	Stationary gas turbines.	Emissions associated with the proposed incremental change emissions will comply with this Rule.
SJVAPCD Regulation IV, Rule 4801	SJVAPC	Sulfur compounds.	Exclusive use of pipeline quality natural gas fuel will ensure compliance with this Rule.
SJVAPCD Regulation VII, Rule 7012	SJVAPC	Hexavalent chrome from cooling towers.	Project has no cooling towers
SJVAPCD Regulation VIII, Rule 8021	SJVAPC	Construction, demolition, excavation, extraction, and other earthmoving activities.	Construction activities associated with the proposed incremental change will conform to a Dust Control Plan designed to ensure compliance with this Rule.
SJVAPCD Regulation VIII, Rule 8041	SJVAPC	Carryout and trackout.	Construction activities associated with the proposed incremental change will conform to a Dust Control Plan designed to ensure compliance with this Rule.
SJVAPCD Regulation VIII, Rule 8051	SJVAPC	Open areas.	Construction activities associated with the proposed incremental change will conform to a Dust Control Plan designed to ensure compliance with this Rule.
SJVAPCD Regulation VIII, Rule 8061	SJVAPC	Paved and unpaved roads.	Construction activities associated with the proposed incremental change will conform to a Dust Control Plan designed to ensure compliance with this Rule.

**Table 3.1-2
LORS Applicable to Air Quality
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
SJVAPCD Regulation VIII, Rule 8071	SJVAPC	Unpaved vehicle/equipment traffic areas.	Construction activities associated with the proposed incremental change will conform to a Dust Control Plan designed to ensure compliance with this Rule.

Notes:

- CFR = Code of Federal Regulations
- HA(P)s = Hazardous Air Pollutants
- SJVAPCD = San Joaquin Valley Unified Air Pollution Control District
- LORS = laws, ordinances, regulations, and standards

3.1.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.2, Air Quality, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not cause significant impacts to air quality.

3.2 GEOLOGIC HAZARDS AND RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.3, Geological Hazards and Resources, of the Midway 2006 AFC (06-AFC-10).

3.2.1 Environmental Baselines

The only change with respect to geologic conditions brought about by the proposed incremental change to the Midway Project is the presence of a groundwater well on the Project site and the withdrawal of groundwater from the subsurface. Withdrawal of ground water from a subsurface aquifer and the possible reduction of the water surface elevation below the Project site have the potential to induce settlement if large amounts of water are withdrawn.

3.2.2 Environmental Consequences

Given that the proposed well is of moderate dimension (8-inch diameter), has a pumping rate of 200 gpm, and is proposed as a backup water supply system (not intended for constant use), no significant settlement is anticipated at the ground surface as a result of ground water withdrawal. Differential settlements of sufficient magnitude to impact surface structures are not anticipated at the Project site.

3.2.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.3, Geological Hazards and Resources, of the Midway 2006 AFC. No increased geological hazards or impacts would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.2.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to geologic hazards or geologic resources.

3.2.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to geologic hazards and resources. Table 3.2-1 presents the LORS related to geologic hazards and resources.

**Table 3.2-1
LORS Applicable to Geologic Hazards And Resources**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
	No Federal LORS are applicable	No federal LORS are applicable.	Not Applicable
State			
Cal PRC S25523(a), Alquist-Priolo Earthquake Fault Zoning	California Energy Commission	Not Applicable	Project site is not within an earthquake zone as defined by the Alquist-Priolo Earthquake Fault Zone Act
Local			
Fresno County Ordinance Code, Title 15	County of Fresno, Department of Public Works and Planning, Development Services Division	Regulates building and grading permits and adopts and amends CBC Code	Proposed incremental change to the Midway Project is in conformance with Fresno County Ordinance Code
California Building Code, Chapters, 16, and 33	County of Fresno, Department of Public Works and Planning, Development Services Division	Code address excavation, grading and earthwork construction, including construction applicable to earthquake safety and seismic activity hazards	Proposed incremental change to the Midway Project is in conformance with Fresno County Ordinance Code

3.2.6 Conclusions

The proposed incremental change to the Midway Project will not result in a significant impact or change to the geological hazards and resource findings provided in Section 5.3 of the Midway 2006 AFC. No significant impacts to geological hazards and resources will result from the approval of this Amendment.

3.3 AGRICULTURE AND SOILS

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.4, Agriculture and Soils, of the Midway 2006 AFC (06-AFC-10).

3.3.1 Environmental Baselines

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.3.2 Environmental Consequences

No changes to the Project site footprint are proposed as part of the incremental change to the Midway Project; thus, the Project is located within the site boundary identified in the Midway 2006 AFC. Therefore, soil impacts remain unchanged from those discussed in the Midway 2006 AFC. In addition, as the Project site has been successfully removed from Williamson Act contract, the proposed incremental change is in conformance with the Williamson Act. The proposed incremental change to the Midway Project will not result in any additional environmental consequences with respect to agriculture and soils.

3.3.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.4, Agriculture and Soils, of the Midway 2006 AFC. No increased impacts to agricultural resources would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.3.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to geologic hazards or geologic resources.

3.3.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to agriculture and soils. Table 3.3-1 presents the LORS related to agriculture and soils.

**Table 3.3-1
LORS Applicable to Agriculture and Soils**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
The Federal Water Pollution Control	The U.S. Army Corps of Engineers	Establishes requirements for any facility or activity that has or will	Project site is in conformance with the Federal Water Pollution

**Table 3.3-1
LORS Applicable To Soils Resources and Agriculture
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
Act of 1972; Clean Water Act of 1977	(Corps) & Environmental Protection Agency (EPA)	discharge waste (including sediment due to accelerated erosion) that may interfere with the beneficial uses of receiving waters	Control Act of 1972 and Clean Water Act of 1977. This Amendment does not change any of the findings in the Midway 2006 AFC.
U.S. Department of Agriculture, Soil Conservation Service (SCS). National Engineering Handbook (1983), Sections 2 and 3	Soil Conservation Service (SCS) now called the Natural Resources Conservation Services (NRCS)	Planning, design, and construction of best management practices to minimize soil erosion	Project site is in conformance with the technical standards outlined in the SCS now called the Natural Resources Conservation Services (NRCS),
State			
Cal. Public Resources Code * 25523(a): CCR** 1752, 1752.5, 2300-2309, and Chapter 2, Subchapter 5, Article 1, Appendix B, Part (i)	California Energy Commission (CEC)	Protection of Environmental Quality	Project site is in conformance and has provided the CEC with information concerning potential impacts.
California Environmental Quality Act, Cal. Public Resources Code * 21000 <i>et seq.</i> ; Guidelines for Implementation of the California Environmental Quality Act of 1970, 14 CCR * 15000-1 5387, Appendix G	California Energy Commission (CEC)	Substantial soil erosion or loss of topsoil, degradation or loss of available agricultural land, agricultural activities, or agricultural land productivity in the project area, alteration of agricultural land characteristics due to plant air emissions, or conversion of prime or unique farmland, or farmland of statewide importance, to non-agricultural use	Project is in conformance with CEQA guidelines. The proposed incremental change does not change the findings in the Midway 2006 AFC.
The California Porter-Cologne Water Quality Control Act of 1952; Cal. Water	California Energy Commission (CEC), Regional Water Quality Control Board (RWQCB),	Requires adequate protection of water quality by appropriate design, sizing, and construction of erosion and sediment controls	Project site is conformance with the CA Porter-Cologne Water Quality Control Act and will provide adequate protection of water quality by appropriate

**Table 3.3-1
LORS Applicable To Soils Resources and Agriculture
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
Code, * 13260 – 13269; 23 CCR Chapter 9	and State Water Resources Control Board (SWRCB)		design, sizing and construction of erosion and sediment controls.
Local			
Fresno County Ordinance Code, Title 15: Chapter 15.28	County of Fresno, Department of Public Works and Planning, Development Services Division	Establishes grading and excavation requirements during the construction phase of the project	Project is in conformance with the Fresno County Ordinance Code. This Amendment does not change any of the findings in the Midway 2006 AFC.

3.3.6 Conclusions

The proposed incremental change to the Midway Project will not result in a significant impact or change to the Agricultural and Soils findings (Section 5.4) of the Midway 2006 AFC. No significant impacts to Agricultural and Soils will result from the approval of this Amendment.

3.4 WATER RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.5, Water Resources, of the Midway 2006 AFC (06-AFC-10), the October 2007 Alternative Water Supply Analysis, or the conditions in the January 2008 CEC Final Commission Decision (FCD). Installation and use of a new groundwater well on-site in lieu of using the CalPeak Panoche well for backup water supply purposes, and reconfiguration of the RO and stormwater ponds will not substantially change the conditions listed in the CEC's FCD.

3.4.1 Environmental Baselines***3.4.1.1 Water Supply***

The primary source of water for the Project will remain the agricultural backwash pond. The backwash collection system will collect approximately 160 AFY of back wash water. In any single year the Midway Project can use 50% of the collected amount and more if needed as long as on a rolling three-year average the quantity consumed does not exceed 50% of the collected amount (see CEC Condition of Certification Water Resources-3 for the Midway Project). The proposed on-site groundwater well will provide a backup supply to the backwash filter water in case the quantity of backwash water available is not sufficient to meet the Midway Project's operating needs. There are no proposed changes to water usage rates or amounts.

3.4.1.2 Water Quality

Tables 5.5-5 and 5.5-9 of the Midway 2006 AFC provide water quality data for the existing CalPeak Panoche Well (upper aquifer) and the agricultural backwash pond, respectively. As shown, the upper aquifer has a total dissolved solids (TDS) of 3,400 mg/L and the agricultural backwash pond water has a TDS of 170 mg/L.

3.4.2 Environmental Consequences

The proposed incremental change to the Midway Project includes the construction of a groundwater well on-site and reconfiguration of the RO and stormwater ponds. The proposed on-site well will draw water from the upper semi-confined aquifer and replace the previously proposed use of the existing well on the adjacent CalPeak Panoche site, as described in the Midway 2006 AFC. The proposed on-site well will access the same groundwater basin as the CalPeak Panoche well. Due to the relative proximity in terms of surface and groundwater basins of the proposed on-site well to the CalPeak Panoche well, the physiographic setting, climate, hydrogeology, and groundwater sub-basins, aquifer characteristics, groundwater occurrence and flow, basin water balance and groundwater storage are the same as those described for the CalPeak Panoche well in the Midway 2006 AFC.

The unlined RO and stormwater ponds are proposed for reconfiguration to avoid PG&E gas line easements which extend across the eastern boundary of the Project site. In addition the separation of ponds for RO wastewater and stormwater are proposed. The location of the reconfigured ponds are

immediately adjacent to the original pond location (located outside of the PG&E easement). The following table, Table 3.4-1 illustrates the size of the original pond versus the new pond sizes.

**Table 3.4-1
RO Pond Size**

Pond	Footprint Size (Sq. Ft)
Midway 2006 AFC	25,000
Reconfigured RO Pond	29,600
Reconfigured Stormwater Pond	8,860

The reconfigured ponds will have a combined volume of 170,000 cubic feet (3.9 acre-feet) and will be adequate for Midway operations.

3.4.2.1 Wastewater Disposal

Wastewater generated from the proposed water sources are presented in the Midway 2006 AFC, Section 5.5.3 and the Alternative Water Supply Analysis, Section 2.4.2.3. Per CEC Condition of Certification Soil&Water-4, the Project owner will operate the facility in compliance with the waste discharge requirements and permit conditions issued by the Central Valley Regional Water Quality Control Board (RWQCB) regarding the RO pond. No increased impacts related to wastewater disposal would result from the approval of this Amendment.

3.4.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.5, Water Resources, of the Midway 2006 AFC or the Alternative Water Supply Analysis. No increased impacts to water resources would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended; consistent with the FCD for the Midway 2006 AFC. The proposed incremental change to the Midway Project will comply with all applicable water resources related conditions provided in the CEC's FCD.

3.4.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to water resources.

3.4.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to water resources. Table 3.4-2 presents the LORS related to water resources.

**Table 3.4-2
LORS Applicable to Water Resources**

LORS	Administrating Agency	Requirement	Project Compliance
Federal			
CWA § 402; 33 USC § 1342; 40 CFR Parts 110, 112, 116	SWRCB and RWQCB	Requires NPDES Permits for construction and industrial stormwater discharges. Requires preparation of a SWPPP and Monitoring Program.	Coverage under NPDES industrial and construction stormwater permits required. NOI for coverage under NPDES industrial and construction stormwater permit will be filed prior to construction. SWPPPs will also be prepared for construction activity and industrial activity.
CWA § 311; 33 USC § 1342; 40 CFR Parts 122-136	RWQCB and DTSC	Requires reporting of any prohibited discharge of oil or hazardous substance.	Midway will conform by proper management of oils and hazardous substances both during construction and operation. If an accidental release or unintended spill occurs it will promptly be reported.
Code of Federal Regulations (CFR), Title 40, Parts 124, 144 to 147	Environmental Protection Agency (EPA)	Requires protection of underground water resources	Underground water resources will be protected in conformance with the CFR.
State			
CWC § 13552.6	SWRCB and RWQCB	Use of potable domestic water for cooling towers and air conditioning is unreasonable use if suitable recycled water is available.	Recycled water is not available in the vicinity of the Midway site. Additionally, no cooling towers are proposed. Water will be used to cool inlet air; however, no potable domestic water will be used.
California Constitution Article 10 § 2	SWRCB and RWQCB	Avoid the waste or unreasonable uses of water. Regulates methods of use and diversion of water.	Midway includes appropriate water conservation measures, both during construction and operation.
State Water Resources Control Board, Resolution No. 75-58	SWRCB and RWQCB	Addresses sources and use of cooling water supplies for power plants which depend on inland waters for cooling and in areas subject to general water shortages.	Recycled water is not available at the Midway site. Moreover, no cooling towers are proposed.

Table 3.4-2
LORS Applicable to Water Resources
(Continued)

LORS	Administrating Agency	Requirement	Project Compliance
Porter-Cologne Water Quality Act of 1972; CWC § 13000-14957, Division 7, Water Quality	Central Valley Regional Water Quality Control Board	Requires State and Regional Water Quality Control Boards to adopt water quality initiatives to protect state waters. Those criteria include identification of beneficial uses, narrative and numerical water quality standards	Midway will conform to applicable state water standards, both qualitative and quantitative, prior to and during plant operation. Applicable permits will be obtained from Regional Water Quality Control Board.
Title 22, CCR	California Department of Health Services	Addresses the use of recycled water for cooling equipment	Midway has investigated the technical and economic feasibility of using reclaimed water and determined that this resource is not available.
The Safe Drinking Water and Toxic Enforcement Act of 1986 (proposition 65), Health and Safety Code 25241.5 <i>et seq.</i>	California Department of Health Services	Prohibits the discharge or release of chemicals known to cause cancer or reproductive toxicity into drinking water sources.	Midway will conform to all state water quality standards, both qualitative and quantitative. Midway will not discharge into any drinking water source. If an unintended spill occurs, reporting of spill will be prompt.
CWC Section 461	California Department of Health Services	Encourages the conservation of water resources and the maximum reuse of wastewater, particularly in areas where water is in short supply.	Midway has investigated the technical and economic feasibility of using reclaimed water and determined that it is not available. However, Midway will use agricultural backwash wastewater and non-potable, high TDS groundwater.
CWC Section 5002	SWRCB and RWQCB	Requires a "Notice of Extraction and Diversion of Water" to be filed with the State Water Resources Control Board on or before March 1 st of the succeeding year.	Notice will be filed as required by state law.
CWC Section 13751	SWRCB	Requires a "Report of Completion" to be filed with the State Water Resources Control Board within 60 days of well construction.	Project will file a Report of Completion once the on-site well is developed.

Table 3.4-2
LORS Applicable to Water Resources
(Continued)

LORS	Administrating Agency	Requirement	Project Compliance
California Public Resources Code § 25523(a); 20 CCR §§ 1752, 1752.5, 2300 – 2309, and Chapter 2 Subchapter 5, Article 1, Appendix B, Part (1)	CEC and RWQCB	The code provides for the inclusion of requirements in the CEC's decision on an AFC to assure protection of environmental quality and requires submission of information to the CEC concerning proposed water resources and water quality protection.	Project will comply with the requirements of the CEC to assure protection of water resources.
CWC §§ 13271 – 13272; 23 CCR §§ 2250 – 2260	RWQCB	Reporting of releases of reportable quantities of hazardous substances or sewage and releases of specified quantities of oil or petroleum products.	No releases of hazardous substances are anticipated; however, Project will conform to all State water quality standards, both qualitative and quantitative. If an unintended spill occurs, reporting of spill will be prompt.
CWC §13260 – 13269; 23 CCR Chapter 9	RWQCB	Requires the filing of a Report of Waste Discharge (ROWD) and provides for the issuance of WDRs with respect to the discharge of any waste that can affect the quality of the waters of the state.	An ROWD will be filed for the RO Unit discharge waste. The RO Unit will be constructed and monitored in accordance with RWQCB requirements.
CEQA, Public Resources Code § 21000 <i>et seq.</i> ; CEQA Guidelines, 14 CCR § 15000 <i>et seq.</i> ; Appendix G	CEC	The CEQA Guidelines (Appendix G) contain definitions of projects which can be considered to cause significant impacts to water resources.	Project will comply with the requirements of the CEC to assure protection of water resources.
Title 27, CCR Division 2. §20375. SWRCB - Special Requirements for Surface Impoundments. (C15: §2548)	SWRCB and RWQCB	This regulation governs the design requirements for surface impoundments.	The RO pond for wastewater disposal will be designed and operated in accordance with the requirements of this section.

Table 3.4-2
LORS Applicable to Water Resources
(Continued)

LORS	Administrating Agency	Requirement	Project Compliance
California Water Code (CWC) Section 13550		CWC Section 13550 requires the use of reclaimed water for industrial purposes subject to reclaimed water being available and meeting certain conditions such as the quality and quantity of the reclaimed water are suitable for the use, the cost is reasonable, and the use is not detrimental to public health.	Reclaimed water is not available. The project intends to use agricultural backwash water as the main water supply.
Energy Commission Integrated Energy Policy Report (IEPR) 2003	CEC	Consistent with State Water Resources Control Board Policy 75-58 and the Warren-Alquist Act, the Energy Commission will approve the use of fresh water for cooling purposes by power plants it licenses only where alternative water supply sources and alternative cooling technologies are shown to be "environmentally undesirable" or "economically unsound". Additionally, the Energy Commission will require zero liquid discharge technologies unless such technologies are shown to be "environmentally undesirable" or "economically unsound".	The Project will comply with the conditions in the Final Commission Decision
Warren-Alquist Act Public Resources Code Section 25500 et seq.	CEC	The California Energy Commission has the exclusive authority to certify the construction and operation of thermal electric power plants 50 megawatts (MW) or larger. The Energy Commission certification is in lieu of any permit required by state, regional, or local agencies, and federal agencies to the extent permitted by federal law (Pub. Resources Code, §25500). The Energy Commission must review power plant AFCs to assess potential environmental and public health and safety impacts, potential measures to mitigate those impacts (Pub. Resources Code, §25519), and compliance with applicable governmental laws and standards (Pub. Resources Code, §25523 (d)).	The Project will comply with the conditions in the Final Commission Decision

**Table 3.4-2
LORS Applicable to Water Resources
(Continued)**

LORS	Administrating Agency	Requirement	Project Compliance
Local			
Fresno County Department of Community Health, Environmental Health System, California Well Standards Ordinance and California Well Standards, Bulletins 74-81 and 74-90.	Fresno County	Regulates construction of new water wells, reconstruction, repair or deepening of existing wells and destruction of abandoned wells.	Midway will conform to all Fresno County water well construction standards.
Fresno County General Plan Water Quality Policies and Programs.	Fresno County	Non-point sources of water pollution, such as runoff from urban areas, grading, construction, and agricultural activities shall be recognized as potentially significant impacts of development.	Midway will conform to all water quality policies and programs, and will have zero discharge off-site from industrial activities. Grading and erosion control plans will prevent construction impacts.
County of Fresno Ordinances Building & Construction, Grading & Erosion Chapter 15.28 Street & Utility Improvement Chapter 17.68 Water & Sewage Chapter 14.04 & 14.08	Fresno County	The County of Fresno has permit requirements associated with Grading and Erosion Control, Encroachment Permits and securing a Franchise Agreement for the natural gas and recycled water lines within County right-of-ways and requirements associated with a Well Drilling Permit.	The project will conform to all applicable Fresno County development ordinances.
Fresno County Ordinance Title 15	Fresno County	Fresno County Ordinance Title 15 requires that projects within the hazard zone be raised to ensure that, in the event of a 100-year storm, the site and equipment is not subjected to any flood damage.	The project will conform to the requirements of the ordinance as applicable.

**Table 3.4-2
LORS Applicable to Water Resources
(Continued)**

LORS	Administrating Agency	Requirement	Project Compliance
Fresno County Department of Community Health, Environmental Health System, California Well Standards Ordinance and California Well Standards, Bulletins 74-81 and 74-90.	Fresno County	Regulates construction of new water wells, reconstruction, repair or deepening of existing wells and destruction of abandoned wells.	Midway will conform to all Fresno County water well construction standards.
Fresno County General Plan Water Quality Policies and Programs.	Fresno County	Non-point sources of water pollution, such as runoff from urban areas, grading, construction, and agricultural activities shall be recognized as potentially significant impacts of development.	Midway will conform to all water quality policies and programs, and will have zero discharge off-site from industrial activities. Grading and erosion control plans will prevent construction impacts.
County of Fresno Ordinances Building & Construction, Grading & Erosion Chapter 15.28 Street & Utility Improvement Chapter 17.68 Water & Sewage Chapter 14.04 & 14.08	Fresno County	The County of Fresno has permit requirements associated with Grading and Erosion Control, Encroachment Permits and securing a Franchise Agreement for the natural gas and recycled water lines within County right-of-ways and requirements associated with a Well Drilling Permit.	The project will conform to all applicable Fresno County development ordinances.
Fresno County Ordinance Title 15	Fresno County	Fresno County Ordinance Title 15 requires that projects within the hazard zone be raised to ensure that, in the event of a 100-year storm, the site and equipment is not subjected to any flood damage.	The project will conform to the requirements of the ordinance as applicable.

3.4.6 Conclusions

The proposed incremental change to the Midway Project, including the addition of a groundwater well on-site and the reconfiguration of the RO and stormwater ponds, is not expected to result in a significant impact or change to the water resource findings provided in Section 5.5, Water Resources, of the Midway 2006 AFC or subsequent submittals. Mitigation measures in the Midway 2006 AFC and conditions in the CEC's FDC identified to reduce potential impacts to less than significant levels will be implemented. No significant impacts to water resources will result from the approval of this Amendment.

3.5 BIOLOGICAL RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.6, Biological Resources, of the Midway 2006 AFC (06-AFC-10).

3.5.1 Environmental Baselines

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.5.2 Environmental Consequences

No changes to the Project site footprint are proposed as part of the incremental change to the Midway Project; thus, the Project is located within the site boundary identified in the Midway 2006 AFC and no additional biological surveys were required.

No sensitive or legally protected biological resources or habitats that would support such resources are present or expected to be present on the Project site. The proposed incremental change to the Midway Project will not affect the diversity of wildlife, plant species, or the movement of fish or any wildlife species, and does not conflict with an applicable habitat conservation plan.

No additional noise impacts to wildlife are anticipated due to the lack of sensitive biological resources adjacent to the Project site. No foraging or nesting habitat for raptors or other birds is present on or adjacent to the Project site. The developed nature of the surrounding area minimizes the potential for bird collisions with increased structure height associated with the proposed incremental change to the Midway Project.

No wetlands or jurisdictional waters are present on the Project site; therefore, no impacts to wetlands or jurisdictional waters are anticipated as a result of the proposed incremental change to the Midway Project. No new significant impacts to biological resources would result from the proposed incremental change to the Midway Project.

3.5.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change biological resources findings and conclusions discussed in Section 5.6, Biological Resources, of the Midway 2006 AFC. Mitigation for impacts to San Joaquin kit fox was assessed previously. In compliance with CEC Condition of Certification BIO-12, habitat compensation has been provided for temporary and permanent impacts to San Joaquin kit fox habitat at a location and amount approved by USFWS. No increased impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended.

3.5.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to biological resources.

3.5.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to biological resources. Table 3.5-1 presents the LORS related to biological resources.

**Table 3.5-1
LORS Applicable to Biological Resources**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
Endangered Species Act of 1973; 16 USC 1531 et seq.; 50 CFR Parts 17 and 222.	USFWS	Protection and management of federally listed threatened or endangered plants and animals and their designated critical habitats (terrestrial and avian species).	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.
National Environmental Policy Act; 42 USC 4321 et seq.	USFWS	Section 7 Endangered Species Act consultation with USFWS (or Section 10A).	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.
Migratory Bird Treaty Act; 16 USC 703-711; 50 CFR Subchapter B.	USFWS	Analysis of impacts of Federal action protection of migratory birds.	No significant impacts to migratory birds would result from the approval of this Amendment.
Fish and Wildlife Coordination Act; 16 USC 661-666.	USFWS	Conservation of fish and wildlife and protection of wetlands.	No wetlands or jurisdictional waters are present on the Project site; therefore, no impacts to wetlands or jurisdictional waters are anticipated from the approval of this Amendment.

**Table 3.5-1
LORS for Biological Resources
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
State			
California Endangered Species Act of 1984; California Fish and Game Code 2050-2098.	CDFG	Consultation Requirement.	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.
California Species Preservation Act of 1970; California Fish and Game Code 900-903.	CDFG	Protection and enhancement of the birds, mammals, fish, amphibians, and reptiles of California.	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.
California Fish and Game Code.	CDFG	No taking of mammals listed as fully protected.	The proposed incremental changes to the Midway Project will not result in the take of any listed mammals.
California Fish and Game Code 3503.	CDFG	No taking or possessing of the nests or eggs of birds.	The proposed incremental changes to the Midway Project will not result in the take of any nests or eggs of birds.
CEQA: California Public Resources Code 21000 et seq.	CEC	Protection of environment.	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.
Local			
Open Space Element and Conservation Element of the County of Fresno General Plan.	County of Fresno Economic and Development Department	Ensure that proposed development projects demonstrate a high degree of compatibility with any threatened or endangered species and sensitive biological resources.	No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of this Amendment.

3.5.6 Conclusions

No significant impacts to sensitive biological resources or habitats that would support sensitive biological resources would result from the approval of the proposed incremental change to the Midway Project.

3.6 CULTURAL RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.7, Cultural Resources, of the Midway 2006 AFC (06-AFC-10).

3.6.1 Environmental Baseline

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.6.2 Environmental Consequences

No changes to the Project site footprint are proposed as part of the incremental change to the Midway Project; thus, the Project is located within the site boundary identified in the Midway 2006 AFC and no additional cultural resources surveys were required.

As identified in the Midway 2006 AFC, there are no previously recorded cultural resources located within or adjacent to the Project site. Therefore, there are no anticipated direct or indirect impacts to archaeological resources. In addition, no built resources eligible for federal or state registers would be adversely impacted. The structures located near the Midway site are ineligible for state and federal registers. Therefore, there are no anticipated direct or indirect impacts to historic resources.

The proposed incremental change to the Midway Project would not create any new impacts to cultural resources. Therefore the discussion of environmental impacts to cultural resources in the Midway 2006 AFC is sufficient for the purposes of this Amendment.

3.6.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.7, Cultural Resources of the Midway 2006 AFC. No increased impacts to cultural resources would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended.

3.6.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to cultural resources.

3.6.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to cultural resources. Table 3.6-1 presents the LORS related to cultural resources.

**Table 3.6-1
LORS Applicable to Cultural Resources**

LORS	Administering Agency	Requirements	Project Compliance
National Environmental Policy Act (NEPA); 42 USC 4321-4327; 40CFR Section 1502.25	Lead Federal Agency	Analysis of federal environmental impacts on federal lands or for projects requiring federal money, assistance, and/or permits.	Project is in conformance with the NEPA guidelines. This Amendment does not change any of the findings outlined in the Midway 2006 AFC.
Archaeological and Historic Preservation Act of 1976 (16 USC)	Secretary of the Interior	Provides for coordination with the secretary when a Federally licensed undertaking may cause irreparable damage to significant cultural resources.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the Archaeological and Historic Preservation Act and a mitigation plan is in place in case there is damage to significant cultural resources.
American Indian Religious Freedom Lead Federal Agency Act of 1979 (42 USC 1996)	Lead Federal Agency	Establishes U.S. Government policy to protect and preserve traditional religious beliefs and practices.	Project is in conformance with the American Indian Religious Freedom Lead Federal Agency Act. This Amendment does not change any of the findings outlined in the Midway 2006 AFC.
Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001)	Lead Federal Agency	Establishes mechanism for right of American Indian tribes to claim ownership of human remains and certain cultural items.	Project is in conformance with the Native American Graves Protection and Repatriation Act. The mitigation plan outlined in the Midway 2006 AFC is unchanged.
Secretary of the Interior's Standards, September 29, 1983.	Lead Federal Agency	Establishes standards for the gathering and treatment of data related to cultural resources.	Project is in conformance with the Secretary of the Interior's Standards. This Amendment does not change any of the findings outlined in the Midway 2006 AFC.
The Warren-Alquist Act §§ 25520, 25527, 25529	CEC	Requires that cultural, historic, and aesthetic resources be taken into account in consideration of an application for certification. Requires that a portion of any such resources on public land be set aside for public access.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the Warren-Alquist Act.

**Table 3.6-1
LORS Applicable to Cultural Resources
(Continued)**

LORS	Administering Agency	Requirements	Project Compliance
California Environmental Quality Act CEC (CEQA) Section 15064.5; California Public Resources Code § 5024, 5024.5, and 21083.2; Title 14, CCR § 15126	CEC	Formal findings by the lead state agency regarding project-related impacts to important cultural resources and unique paleontological resources.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the CEQA guidelines.
Cal. Pub. Res. Code §§ 25523(A), CCR §§ 1752, 1752.5, 2300-2309, and Chapter 2, Subchapter 5, Article 1, Appendix B, Part (i)	CEC	Special consideration of unique historical, archaeological, and cultural sites.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the California Public Resource Code.
Cal. Health & Safety Code § 7050.5	County Coroner (Medical Examiner)	Determination of origin of human remains and coordination with NAHC.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the California Health & Safety Code.
Cal. Pub. Res. Code § 5024.1	State Historical Resources Commission	Establishes the California Register of Historic Resources and procedures for nominating sites to the register.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the California Public Resource Code.
Cal. Pub. Res. Code § 5097.5	Fresno County Planning Department and Native American Heritage Commission	Prevent unauthorized removal of archaeological resources on public lands.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the California Public Resource Code.
Cal. Pub. Res. Code § 5097.94 and 5097.98.21	Fresno County Planning Department and Native American Heritage Commission	Prevent unauthorized removal of archaeological resources on public lands.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the California Public Resource Code.

**Table 3.6-1
LORS Applicable to Cultural Resources
(Continued)**

LORS	Administering Agency	Requirements	Project Compliance
Fresno County Master Plan	Fresno County Planning Department	Calls for adherence to CEQA cultural resources regulations within Fresno County.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with the Fresno County Master Plan.

3.6.6 Conclusions

Archival and intensive survey did not identify cultural resources within or adjacent to the previously defined Project area and no direct or indirect impacts to cultural resources were anticipated. Given that the proposed incremental change to the Midway Project encompasses the same footprint, no direct or indirect impacts to cultural resources are anticipated as a result of implementation of the proposed incremental change to the Midway Project.

3.7 PALEONTOLOGICAL RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.8, Paleontological Resources, of the Midway 2006 AFC (06-AFC-10).

3.7.1 Environmental Baselines

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of the proposed incremental change.

3.7.2 Environmental Consequences

No changes to the Project site footprint are proposed as part of the incremental change to the Midway Project; thus, the Project is located within the site boundary identified in the Midway 2006 AFC and no additional paleontological resources surveys were required.

As identified in the Midway 2006 AFC, the Midway site is located on fossiliferous Pleistocene and Holocene-age alluvial deposits informally named the “Los Banos alluvium”, “San Luis Ranch alluvium”, and “Patterson alluvium.” Excavations deeper than about four feet at the Midway site, such as those for installation of the proposed groundwater well, have the potential to result in adverse impacts to significant paleontological resources. However, the relocation of surface facilities have very low potential to cause adverse impacts to significant paleontological resources, as they will involve ground disturbance only to the “Patterson alluvium.”

No impacts on paleontological resources are expected to occur from the continuing operation of the Project or any of its related facilities.

Therefore, the proposed incremental change to the Midway Project would not create any new impacts to paleontological resources. Therefore the discussion of environmental impacts to paleontological resources in the Midway 2006 AFC is sufficient for the purposes of this Amendment.

3.7.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.8, Paleontological Resources, of the Midway 2006 AFC. No increased impacts to paleontological resources would result from the approval of the proposed incremental changes to the Midway Project. Therefore, no additional mitigation measures are recommended. The mitigation measures proposed in Section 5.8.5, Paleontological Resources; Mitigation Measures, of the Midway 2006 AFC would effectively recover the value to science of any significant fossils uncovered during additional excavations required as part of the proposed incremental change to the Midway Project.

3.7.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to paleontological resources.

3.7.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to paleontological resources. Table 3.7-1 presents the LORS related to paleontological resources.

**Table 3.7-1
LORS Applicable To Paleontological Resources**

LORS	Administering Agency	Requirement	Project Conformance
Antiquities Act of 1906	EPA	Protects paleontological resources on federal lands	No change to Project compliance with this requirement would occur with approval of this Amendment. Project site is in conformance with The Antiquities Act 1906.
CEQA	CEC	Fossil remains may be encountered by earth-moving	No change to Project compliance with this requirement would occur with approval of this Amendment. Project site is in conformance with CEQA guidelines.
Public Resources Code Sections 5097.5/5097.9	CEC	Would apply only if some project land were acquired by the State of California	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with Public Resources Code Sections 5097.5/5097.9.

3.7.6 Conclusions

The proposed incremental change to the Midway Project will have no impact on paleontological resources beyond those described in Section 5.8, Paleontological Resources, of the Midway 2006 AFC.

3.8 LAND USE

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.9, Land Use, of the Midway 2006 AFC (06-AFC-10).

3.8.1 Environmental Baselines

The proposed incremental change to the Midway Project includes minor modifications to the site plan and slight equipment relocation adjustments, as described in Section 2.0, Description of Project Amendment. Descriptions of the Midway Project and land use issues are presented in Section 5.9, Land Use, of the Midway 2006 AFC.

3.8.2 Environmental Consequences

The proposed incremental change to the Midway Project would not result in significant impact or change to the land use findings of the Midway 2006 AFC. The incremental change would not physically divide an established community; conflict with applicable land uses plans, policies, or regulations; or conflict with an applicable habitat conservation plan. Furthermore, the incremental change to the Midway Project does not affect the Project site boundaries and, therefore, there are no new impacts.

The proposed incremental change to the Midway Project is consistent with Fresno County's General Plan and zoning designations for the site, with the approval of an Unclassified Conditional Use Permit (CUP). As discussed in the Midway 2006 AFC, the Midway Project site is designated Agriculture by the Land Use Element of the Fresno County General Plan. The existing zoning designation is AE-20, Exclusive Agriculture District. Energy production is an unclassified conditional use in the AE Zone district. The impacts resulting from the CUP have been discussed in the Midway 2006 AFC. That discussion is sufficient for the purpose of this Amendment.

3.8.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.9, Land Use, of the Midway 2006 AFC. Mitigation for impacts to loss of 6.16 acres of prime farmland under Williamson Act contract was assessed previously. In compliance with CEC Condition of Certification Land-1 and Land-3, the Project owner shall mitigate for the permanent loss of 6.16 acres of prime farmland at a one-to-one ratio and provide a copy of Fresno County's Final Certificate of Cancellation of Contract from Agriculture Preserve No. 367. No increased land use impacts would result from the approval of the proposed incremental change to the Midway Project. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.8.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to land use.

3.8.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to land use. Table 3.8-1 presents the LORS related to land use.

**Table 3.8-1
LORS Applicable to Land Use**

LORS	Administering Agency	Requirement	Project Compliance
No federal LORS have been identified.			
State			
California Public Resources Code *25523 (a): 20 CCR **1752, 1752.5, 2300-2309, and Chapter 2, Subchapter 5, Appendix B, Part (1) (3) and (4)	CEC	Evaluate compatibility of the proposed project with relevant land use plans.	Project is in conformance with CEC guidelines and requirements.
California State Planning Law, Government Code Section 65300 through 65302 development of the county or city	Fresno County	Requires each city and county to adopt a comprehensive, general plan for the physical development of the County or City. Requirements identify contents of General Plan. Fresno County has adopted a General Plan. No project action is required.	No change to Project compliance with this requirement would occur with approval of this Amendment.
California State Planning Law Government code Section 51200 through 51207 (Williamson Act)	Fresno County	Enables local governments to enter into contracts with private landowners to restrict specific parcels of land to agricultural or related open space use. Landowners receive property tax assessments much lower than normal because they are based upon farming and open space uses as opposed to full market value.	Project is in compliance because the site has been cancelled from the Fresno County Williamson Act. The proposed incremental change does not change the land use designation.
Local			
Fresno County General Plan	Fresno County Public Works & Planning Department	Comply with all applicable land use provisions.	No change to Project compliance with this requirement would occur with approval of this Amendment.
Fresno County Zoning Ordinance	Fresno county Public Works & Planning Department	Comply with applicable policies, development standards, and specific zoning requirements.	Project site is designated AE, however a Conditional Use Permit has been issued to allow non-agricultural use. Project is in compliance.

**Table 3.8-1
LORS Applicable to Land Use
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
Fresno County Municipal Code	Fresno county Public Works & Planning Department	Comply with all applicable County ordinances.	Project is in conformance with all County ordinances.
Fresno county General Plan-2000 Land Use Element: <i>Agriculture Goals, Objectives, and Policies.</i> Policy LU-A.3	Fresno county Public Works & Planning Department	Allows, by use of a discretionary permit, certain non-agricultural uses including oil and gas development activities.	Project site is in an agricultural zoned district. However, a CUP has been issued for non-agricultural use.
Fresno County General Plan-2000 Land Use Element: <i>Agriculture Goals, Objectives, and Policies.</i> Policy LU-A.13	Fresno county Public Works & Planning Department	Ensure protection for agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses.	Project will comply with regulations to include buffers between proposed non-agriculture uses and agricultural uses.
Fresno County General Plan-2000 Land Use Element: Open Space & Conservation: <i>Minerals Goals, Objectives, and Policies,</i> Policy OS-C.1	Fresno County Public Works & Planning Department	Incompatible land uses within the impact area of existing or potential surface mining areas not permitted.	Project will not disturb any surface mining areas in the vicinity.
Fresno County General Plan-2000 Land Use Element: Open Space & conservation: <i>Minerals Goals, Objectives, and Policies,</i> Policy OS-C.6	Fresno County Public Works & Planning Department	Ensures the Williamson Act is recognized and adhered to.	Project is in compliance with the Williamson Act.
Fresno County General Plan-2000 Land Use Element: Open Space & conservation: <i>Minerals Goals, Objectives, and Policies,</i> Policy OS-C.10	Fresno County Public Works & Planning Department	Land uses that threaten the future availability of mineral resource or preclude future extraction of those resources not permitted.	Project is not located within any mineral resource areas.
Fresno County General Plan-2000 Land Use Element: Open Space & conservation: <i>Minerals Goals, Objectives, and Policies,</i> Policy OS-C.12	Fresno County Public Works & Planning Department	Fresno County shall be divided into three areas for the regulation of oil and gas development.	Project is an electricity generating facility.
Fresno County General Plan-2000 Health Element: <i>Noise Goals, Objectives, and Policies,</i> Policy OS-C.1	Fresno County Public Works & Planning Department	Requires that all proposed development incorporate design elements necessary to minimize adverse noise impacts on surrounding land uses.	Project is already in conformance. No noise impacts are expected with The proposed incremental change to the Midway Project.

**Table 3.8-1
LORS Applicable to Land Use
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
Fresno County General Plan-2000 Health Element: Noise <i>Goals, Objectives, and Policies</i> , Policy OS-C.6	Fresno County Public Works & Planning Department	Regulates construction-related noise to reduce impacts on adjacent uses in accordance with the County's Noise Control Ordinance.	Project is in conformance with County's Noise Control Ordinance.
Fresno County Zoning Ordinance Section 816	Fresno County Public Works & Planning Department	Defines "AE" Exclusive Agriculture District.	Project is within an AE district. A Conditional Use Permit has been issued for the project site.
Fresno County Zoning Ordinance Section 816.3	Fresno County Public Works & Planning Department	Defines uses subject to Conditional Use Permit in AE Zone.	Project has been issued a Conditional Use Permit.
Fresno County Zoning Ordinance Section 816.5	Fresno County Public Works & Planning Department	Defines property development standards within AE Zone.	Project is in conformance with the property development standards within an AE Zone.
Fresno County Zoning Ordinance Section 816.5A	Fresno County Public Works & Planning Department	Provides regulations for lot area.	Project is in conformance with lot area regulations.
Fresno County Zoning Ordinance Section 816.5B	Fresno County Public Works & Planning Department	Provides regulations for lot dimensions.	Project is in conformance with lot dimensions.
Fresno County Zoning Ordinance Section 816.5C	Fresno County Public Works & Planning Department	Provides regulations for population density.	Project is in conformance with population density requirements.
Fresno County Zoning Ordinance Section 816.5D	Fresno County Public Works & Planning Department	Provides regulations for building height.	Project is in conformance with all building regulations.
Fresno County Zoning Ordinance Section 816.5E	Fresno County Public Works & Planning Department	Provides regulations for yards.	Project is in conformance with all building regulations.

**Table 3.8-1
LORS Applicable to Land Use
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
Fresno County Zoning Ordinance Section 816.5F	Fresno County Public Works & Planning Department	Provides regulations for space between buildings.	Project is in conformance with all building regulations.
Fresno County Zoning Ordinance Section 816.5H	Fresno County Public Works & Planning Department	Provides regulations for fences, hedges, and walls.	Project is in conformance with all building regulations.
Fresno County Zoning Ordinance Section 816.6	Fresno County Public Works & Planning Department	Defines what permits are required in the AE Zone.	Project has obtained permits required on AE zoned land. CUP issued.
Fresno County Zoning Ordinance Section 873	Fresno County Public Works & Planning Department	CUP process and authority.	Project has been issued a Conditional Use Permit.
Fresno County Zoning Ordinance Section 873	Fresno County Public Works & Planning Department	Site plan review.	Project is already in conformance with site plan review. Site plan review for revised site will be conducted.

3.8.6 Conclusions

The proposed incremental changes to the Midway Project would not result in a significant impacts or changes to Section 5.9, Land Use, of the Midway 2006 AFC. No significant impacts to land use would result from the approval of the proposed incremental changes to the Midway Project. The proposed incremental change would comply with all current land use LORS that could potentially affect the Midway Project.

3.9 SOCIOECONOMICS

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.10, Socioeconomics, of the Midway 2006 AFC (06-AFC-10).

3.9.1 Environmental Baseline

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.9.2 Environmental Consequences

No significant changes or impacts are expected with the proposed incremental change to the Midway Project. Due to the possible need of 3 additional pieces of equipment required for drilling the proposed on-site groundwater well, three additional construction workers may be required. However, it is likely that the well drilling equipment will be operated by existing labor force anticipated for Project construction.

3.9.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.10, Socioeconomics, of the Midway 2006 AFC. No increased socioeconomics impacts would result from the approval of the proposed incremental change to the Midway Project. Therefore, no mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.9.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to socioeconomics.

3.9.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to socioeconomics. Table 3.9-1 presents the LORS related to socioeconomics.

**Table 3.9-1
LORS Applicable To Socioeconomics**

LORS	Administering Agency	Applicability	Conformance (Section)
Federal			
Executive Order (EO) 12250	Environmental Protection Agency (EPA)	Federal agencies to adopt disparate impact.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project is in conformance with EO 12250. This proposed incremental change to the Midway Project does not change the findings discussed in the Midway 2006 AFC.
Executive Order (EO) 12898	Environmental Protection Agency (EPA)	Agencies are required to identify and address.	Project is in conformance with EO 12898. This proposed incremental change to the Midway Project does not change the findings discussed in the Midway 2006 AFC.
State			
Government Code Sections 65302 et seq.	Fresno County	Each city and county is required to develop a General Plan to guide planning and development within a jurisdiction.	Project will be in conformance with the Fresno County General Plan. This proposed incremental change to the Midway Project does not change the findings discussed in the Midway 2006 AFC.
Government Code Sections 65995-65997 (Education code Section 17620)	Fresno County	Includes provisions for levies against development projects in school districts.	Project is not located within any school district. This proposed incremental change to the Midway Project does not change the findings discussed in the Midway 2006 AFC.
Local		None Identified.	

3.9.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.10, Socioeconomics, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not cause significant impacts to socioeconomics.

3.10 TRAFFIC AND TRANSPORTATION

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.11, Traffic and Transportation, of the Midway 2006 AFC (06-AFC-10).

3.10.1 Environmental Baselines

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of this Amendment.

3.10.2 Environmental Consequences

As stated, the proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the Traffic and Transportation findings and conclusions in the Midway 2006 AFC. A brief summary of the anticipated changes are described below:

1. A proposed short-term well drilling activity generating three (3) well drilling related trips on-site will not cause a significant increase in traffic to warrant new assessment. The environmental baseline conditions of the roadway and circulation system serving the Project site have sufficient capacity to accommodate the increase of 3 well drilling-related trips on-site.
2. The proposed incremental change to build only one of the two ammonia storage on-site would result in a reduction of ammonia storage capacity. Therefore, increased frequency of ammonia deliveries would be needed to maintain sufficient ammonia reserve levels. The initial conservative estimate of keeping the two (2) tanks at or near full capacity would require 3 truck deliveries of aqueous ammonia per year or 1 truck delivery every four months on average in context to one year of plant operations consumption. The proposed change (one tank) essentially doubles the estimates for the initial two (2) tanks and would result in 6 truck deliveries of aqueous ammonia per year or 1 truck delivery every two months on average. It is anticipated that the increased frequency of the deliveries will not cause any new significant traffic impacts since those deliveries involve a small number of ammonia delivery trips.

3.10.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change the findings and conclusions discussed in Section 5.11, Traffic and Transportation, of the Midway 2006 AFC. No increased traffic impacts would result from the approval of the proposed incremental change to the Midway Project. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.10.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to traffic and transportation.

3.10.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to traffic and transportation. Table 3.2-1 presents the LORS related to traffic and transportation.

**Table 3.10-1
LORS Applicable to Traffic and Transportation**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
Title 49, Code of Federal Regulations, Section 171-177	California Highway Patrol	Governs the transportation of hazardous materials, including the marking of transportation vehicles.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project would conform to this law by requiring that shippers of hazardous materials use the required markings on their transportation vehicles.
Title 14, Code of Federal Regulations, Section 77.13(2)(i)	Federal Aviation Administration	Requires applicant to notify FAA of any construction greater than height limits defined by the FAA.	Project facility heights would not exceed 200 feet. Therefore, notification to the FAA would not be required.
State			
California Vehicle Code, Section 353	California Highway Patrol	Defines the hazardous materials.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project would comply with these codes by continuing to classify all hazardous materials in accordance with their clarification.
California Vehicle Code, Sections 13369, 15275, 15278	California Department of Motor Vehicles	Addresses the licensing of drivers and the classification of license required for the operation of particular types of vehicles. In addition, these sections require the possession of certificates of permitting the operation of vehicles transporting hazardous materials.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project would comply with these codes by requiring that contractors and employees be properly licensed and endorsed when operating vehicles used to transport hazardous materials.

Table 3.10-1
LORS Applicable to Traffic and Transportation
(Continued)

LORS	Administering Agency	Requirement	Project Compliance
California Vehicle Code, Section 31303-31309	California Highway Patrol	Requires transporters of hazardous materials to use the shortest route possible.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project would comply with this law by requiring that shippers of hazardous materials use the shortest route possible to and from the Project site.
California Vehicle Code, Section 32000-32053	California Highway Patrol	Regulates the licensing of carriers of hazardous materials and noticing requirements.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project would comply with this law by requiring that motor carriers of hazardous materials be properly licensed by the CHP.
California Vehicle Code, Section 32100-32109	California Highway Patrol	Transporters of inhalation hazardous materials or explosive materials must obtain a hazardous materials transportation license.	Project would comply with this law by requiring shippers of these types of material to comply with all route restrictions, equipment standards, and inspection requirements.
California Vehicle Code, Section 34000-34100	California Highway Patrol	Establish special requirements for the flammable and combustible liquids over public roads and highways.	Project would comply with this law by requiring that shippers of hazardous materials maintain their hazardous material transport vehicles in a manner that ensures the vehicles will pass CHP inspections.
California Vehicle Code, Section 34500	California Highway Patrol	Regulate the safe operation of vehicles, including those that are used for the transportation of hazardous materials.	Project would comply with this law by requiring shippers of hazardous materials to have the necessary permits, inspections, and licenses issued by the CHP for the safe operation of the hazardous materials transport vehicles.
California Vehicle Code, Section 35550	California Department of Transportation	Imposes weight guidelines and restrictions upon vehicles traveling upon freeways and highways.	Project would comply with this code by requiring compliance with weight restrictions and by requiring heavy haulers to obtain permits, if required, prior to delivery of any heavy haul load.
California Vehicle Code, Section 35780	California Department of Transportation	Requires approval for a permit to transport oversized or excessive load over state highways.	Project would comply with this code by requiring that heavy haulers obtain a Single-Trip Transportation Permit for oversized loads for each vehicle, prior to delivery of any oversized load.

**Table 3.10-1
LORS Applicable to Traffic and Transportation
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
California Streets and Highways Code, Sections 117	California Department of Transportation	Permits for the location in the ROW of any structures or fixtures necessary to telegraph, telephone, or electric power lines or of any ditches, pipes, drains, sewers, or underground structures.	If applicable, Project would comply with this code by acquiring the necessary permits and approval from Caltrans with regard to use of public ROWs.
California Streets and Highways Code, Sections 660, 670, 672, 1450, 1460, 1470, 1480 et seq.	California Department of Transportation and Fresno County	Defines highways and encroachment. Regulate ROW encroachment and the granting of permits with conditions for encroachment in state and county roads.	Project would apply for encroachment permits for any excavation in state and county roadways prior to construction.
California Health and Safety Code, Section 25160 et seq.	California Highway Patrol	Addresses the safe transport of the hazardous materials.	Project would comply with this law by requiring that shippers of hazardous wastes are properly licensed by the DTSC and hazardous waste transport vehicles are in compliance with DTSC requirements.
California Department of Transportation Traffic Manual, Section 5-1.1	Fresno County	Requires traffic control plans to ensure continuity of traffic during roadway construction.	No change to Project compliance with this requirement would occur with approval of this Amendment. As part of CEC Conditions of Certification for the Midway Project a Traffic Control Plan is required prior to the start of construction.
Local			
Fresno County General Plan, Circulation Element, Policy TR-A.2.	Fresno County	Requires LOS D or better operating conditions for rural County roadways.	All study roadways operate at LOS C or better both project construction and operations analysis scenarios.
Fresno County General Plan, Circulation Element, Policy TR-A.3.	Fresno County	New roadways require conformity with access specifications in the Circulation Diagram and Standards.	Not applicable

3.10.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.11, Traffic and Transportation, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not cause significant impacts to traffic and transportation in the Project area.

3.11 NOISE

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.12, Noise, of the Midway 2006 AFC (06-AFC-10).

3.11.1 Environmental Baselines

Changes potentially significant to noise associated the proposed incremental change to the Midway Project are the reconfiguration to the SCR/CO Catalyst Exhaust System, Exhaust Stacks and Auxiliary Transformers, the shifting of Gas Turbine Generators and Deionized Water forwarding Skid and the addition of a new groundwater well on-site. Further descriptions of the proposed changes can be found in Section 2.0, Project Description, of this Amendment.

3.11.2 Environmental Consequences

The noise model of the proposed incremental change to the Midway Project contained the same noise sources and receivers listed in Tables 5.12-7 and 5.12-8 of the Midway 2006 AFC, respectively. The proposed incremental change to the Midway Project does not involve substantial changes to the specification of the noise generating equipment. In addition, the slight relocation of noise generating equipment on-site, in terms of distances from the equipment to nearby receivers, were not significant enough to cause a change in the noise impact levels as described in Section 5.12, Noise, of the Midway 2006 AFC. Construction schedule is not affected by the relocation or the addition of the indicated equipment. Therefore, the proposed incremental change to the Midway Project would not involve any substantial change to the findings and conclusions in Section 5.12, Noise, of the Midway 2006 AFC.

3.11.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.12, Noise, of the Midway 2006 AFC. No increased noise impacts would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended.

3.11.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to noise or sensitive noise receivers.

3.11.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to noise. Table 3.2-1 presents the LORS related to noise.

**Table 3.11-1
LORS Applicable to Noise**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
EPA 1974 Noise Guidelines	Environmental Protection Agency	Guidelines for state and local governments.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.
Noise Control Act (1972) as amended by the Quiet Communities Act (1978); (42 USC 4901-4918)	Environmental Protection Agency	Separate noise-sensitive areas are encouraged.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.
State			
Cal-OSHA Occupational Noise Exposure Regulations (8 CCR, General Industrial Safety Orders, Article 105, Control of Noise Exposure, § 5095, et seq.)	Cal-OSHA	Sets employee noise exposure limits. Equivalent to Federal OSHA standards.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.
Local			
County of Fresno General Plan	County of Fresno	This requirement is applicable to stationary noise sources such as the proposed project. It refers to the Fresno County Ordinance Code for limits.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.
County of Fresno Ordinance Code, Section 8.40.040	County of Fresno	This requirement is applicable to noise generated during operation of the proposed project. It sets sound level limits at residences and other outdoor activity areas.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.
County of Fresno Ordinance Code, Section 8.40.060	County of Fresno	This requirement is applicable to noise generated during construction of the proposed project. It restricts the hours of the day that construction is permitted.	No change to Project compliance with this requirement would occur with approval of this Amendment. No new or additional compliance measures are required.

3.11.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.12, Noise, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not cause significant impacts to noise and nearby receivers.

3.12 VISUAL RESOURCES

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.13, Visual Resources, of the Midway 2006 AFC (06-AFC-10).

3.12.1 Environmental Baseline

Section 5.13.1 of the Midway 2006 AFC describes the inventory of visual resources within the vicinity of the Project Site, including a description of the regional landscape setting, the anticipated visual sphere of influence (VSOI) of the Project, and the inventory methods and results. The proposed incremental change to the Midway Project would not result in changes to this analysis.

However, the discussion on the environmental baseline in the Midway 2006 AFC has changed slightly for the purposes of this Amendment. Table 5.13-4 of the Midway 2006 AFC identifies a significant impact to the visual resources of backyard views of residents near the Project site. As stated in Section 5.12.5.1 of the Midway 2006 AFC, a signed agreement is in place between the landowner of the residences (5-Plex) and Starwood-Power Midway, LLC to relocate the current residents. The 5-Plex will no longer be used for residential purposes; therefore, it is no longer considered a sensitive visual receptor.

3.12.2 Environmental Consequences

The proposed incremental change to the Midway Project would entail increasing the height of the CTG stacks from 50 feet to 68 feet as well as a slight change in location of various other structures on the Project site. Figure 1-2 shows a revised rendering of the Starwood Power-Midway facility, to include the proposed incremental site plan changes to the Midway Project.

The proposed site plan changes would have only a negligible effect on visual resources in the VSOI for the Project. Given that the changes are negligible, per e-mail correspondence with Mr. Chris Davis (CEC) to Amy Gramlich of URS dated April 4, 2008, it was concluded that the visual resource KOP simulations presented in the Midway 2006 AFC do not need to be revised. The CEC decided that new simulations using the height of the new stack, 68-feet, would not significantly change the visual analysis prepared by CEC staff for the Project. Therefore, the Proposed Amendment would not have any increased visual resource impacts.

Therefore, the assessment of environmental consequences presented in the Midway 2006 AFC is adequate to represent Project impacts to visual resources with the proposed modifications.

3.12.3 Mitigation Measures

The proposed incremental change to the Midway Project would not change the findings and conclusions discussed in Section 5.13, Visual Resources, of the Midway 2006 AFC. No increased visual impacts would occur. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.12.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to visual resources.

3.12.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to visual resources. Table 3.12-1 presents the LORS related visual resources.

**Table 3.12-1
LORS Applicable to Visual Resources**

LORS	Administering Agency	Requirements	Project Compliance
Federal			
Application for Certification Requirements	California Energy Commission (CEC)	Rules of Practice and Procedure & Power Plant Site Certification Regulations, Appendix B.	The Project will comply with all CEC conditions.
Visual Resource Manual	Bureau of Land Management (BLM)	To manage public lands in a manner which will protect the quality of the scenic (visual) values of these lands.	BLM public domain lands and the Panoche Hills Wilderness Study Areas lie five miles west and may have distant views to the Project site. See Section 5.13.1.5 for a description of these views. In summary, changes to these views will be indiscernible to minimal.
State			
State Scenic Highway Requirements	California Department of Transportation (Caltrans)	Requirements are applicable to state designated scenic highways. There are none in the project area.	There are no Designated or Eligible State Scenic Highways in the VSOI. Therefore, compliance with state aesthetic LORS is inapplicable.
Local			
Fresno County General Plan/Public Facilities and Services – <i>Goal PF-J</i>	Fresno County Planning Department	To provide efficient and cost-effective utilities that serves the existing and future needs of people in the unincorporated areas of the County.	One of the Project objectives listed in the Midway 2006 AFC is to provide cost-effective energy for the future needs of Fresno County.

**Table 3.12-1
Summary of LORS
(Continued)**

LORS	Administering Agency	Requirements	Project Compliance
Fresno County General Plan/Public Facilities and Services - <i>Goal PF-J.2</i>	Fresno County Planning Department	The County shall work with local gas and electric utility companies to design and locate appropriate expansion of gas and electric systems, while minimizing impacts to agriculture and minimizing noise, electromagnetic, visual, and other impacts on existing and future residents.	No change to Project compliance with this requirement would occur with approval of this Amendment. The Midway site is adjacent to an existing substation and two peaker power plants. By containing power sources to this already disturbed localized area, impacts to visual resources are minimized.
Fresno County General Plan/Public Facilities and Services - <i>Goal PF-J.3</i>	Fresno County Planning Department	The County shall require all new residential development along with new urban commercial and industrial development to underground utility lines on-site.	No change to Project compliance with this requirement would occur with approval of this Amendment. The Midway site is adjacent to an existing substation. Necessary transmission lines will go a minimal distance (approximately 300 feet from switchyard to substation).
Fresno County General Plan/Open Space and Conservation - <i>Goal OS-K</i>	Fresno County Planning Department	To conserve, protect, and maintain the scenic quality of Fresno County and discourage development that degrades areas of scenic quality.	No change to Project compliance with this requirement would occur with approval of this Amendment. There are no scenic resources within the VSOI. The Midway site lies adjacent to an existing substation and two peaker power plants. By containing the power development to this localized area, changes to visual resources are minimized. Furthermore, by focusing development within this area, scenic areas within the County can be maintained.
Fresno County General Plan/Open Space and Conservation - <i>Goal OS-K. 1</i>	Fresno County Planning Department	The County shall encourage the preservation of outstanding scenic views, panoramas, and vistas whenever possible. Methods to achieve this may include encouraging private property owners to enter into open space easements for designated scenic areas.	No change to Project compliance with this requirement would occur with approval of this Amendment. There are few scenic views, panoramas, and vistas within the VSOI. The County of Fresno does consider I-5 to be a locally designated Scenic Highway. Views from I-5 to the Midway site are minimal and short in duration due to vegetative screening and topography within the area.

**Table 3.12-1
Summary of LORS
(Continued)**

LORS	Administering Agency	Requirements	Project Compliance
Fresno County General Plan/Open Space and Conservation - <i>Goal OS-K.4</i>	Fresno County Planning Department	The County should require development adjacent to scenic areas, vistas, and roadways to incorporate natural features of the site and be developed to minimize impacts to the scenic qualities of the site.	No change to Project compliance with this requirement would occur with approval of this Amendment. The site incorporates natural site features including the use of vegetative screening already in the area. In addition, other design features have been incorporated to help minimize impacts to scenic quality.
Fresno County General Plan/Open Space and Conservation - <i>Goal OS-L</i>	Fresno County Planning Department	To conserve, protect, and maintain the scenic quality of land and landscape adjacent to scenic roads in Fresno County.	No change to Project compliance with this requirement would occur with approval of this Amendment. I-5 is designated a Fresno County Scenic Highway and lies approximately two miles west of the Midway site. The scenic quality of land and landscape adjacent to the highway will not change as a result of the proposed incremental changes to the Midway Project. Traveler views from the highway will change slightly, but the change will be indiscernible to minimal.
San Benito County General Plan/Scenic Roads and Highways Element - <i>Goal</i>	San Benito County Planning Department	Preserve scenic qualities of San Benito County. Enhance and preserve the visual qualities of the designated scenic corridors within San Benito County.	No change to Project compliance with this requirement would occur with approval of this Amendment. San Benito County will have only distant views to the Project.
San Benito County - <i>Dark Sky Ordinance</i>	San Benito County Planning Department	Encourage lighting practices and systems which will: minimize light pollution, glare, light trespass, conserve energy and resources while maintaining night-time safety, utility, security and productivity; and curtail the degradation of the night time visual environment.	No change to Project compliance with this requirement would occur with approval of this Amendment.

3.12.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.13, Visual Resources, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not create increased impacts to visual resources to visual receptors in the Project area.

3.13 WASTE MANAGEMENT

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.14, Waste Management, of the Midway 2006 AFC (06-AFC-10).

3.13.1 Environmental Baselines

The proposed incremental change to the Midway Project will generate hazardous and non-hazardous wastes during construction and operation of the facility. Section 5.14, Waste Management, of the Midway 2006 AFC provides a detailed description of the types of wastes anticipated at the site including solid non-hazardous waste, solid hazardous waste, and wastewater. No “Recognized Environmental Conditions” were identified in the previous Environmental Site Assessment.

3.13.2 Environmental Consequences

The analysis of impacts related to waste management from the Midway Project is based on significance criteria summarized as follows:

- Non-hazardous solid wastes must not significantly alter available landfill, recycling, or treatment program capacities.
- Non-hazardous liquid wastes must not cause a publicly owned treatment system to violate any applicable waste discharge requirements.
- Hazardous solid wastes must not significantly alter available Class I landfill capacity. The facility must comply with all applicable laws regarding the handling of hazardous wastes.

As no additional structures are proposed, and as soil removed for groundwater well installation would be utilized on-site, no increased amount of construction or operation waste is anticipated with proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project is not anticipated to significantly impact any of these three categories nor change the findings and conclusions of Section 5.13, Waste Management, of the Midway 2006 AFC.

3.13.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.14, Waste Management, of the Midway 2006 AFC. No increased waste management impacts would result from the approval of the proposed incremental change. Therefore, no additional mitigation measures are recommended.

3.13.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to waste management.

3.13.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to waste management. Table 3.13-1 presents the LORS related waste management.

**Table 3.13-1
LORS Applicable to Waste Management**

LORS	Administering Agency	Applicability	Project Compliance
Federal			
RCRA Subtitle C and D, 42 USC §§ 6901 to 6992k, and Section 6.12.2.1.	Laws implemented by the state	Regulate non-hazardous and hazardous wastes.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies pursuant to non-hazardous and hazardous waste regulations.
40 CFR 260, et seq.	Implemented by USEPA by delegating to the state	Implementing regulations for RCRA Subtitle C law.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will implement regulations for RCRA Subtitle C law.
Federal Clean Water Act	The NPDES program is administered at the stated level	Regulates wastewater discharges to surface waters of the U.S.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies pursuant to waste water discharges to surface waters of the U.S. regulations.
State			
California Integrated Waste Management Act, Public Resources Code § 40000 et seq.	FCDCH	Implements RCRA regulations for non-hazardous waste.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies that follow RCRA regulations for non-hazardous waste.

**Table 3.13-1
LORS Applicable to Waste Management
(Continued)**

LORS	Administering Agency	Applicability	Project Compliance
Porter-Cologne Water Quality Control Act of 1998, Water Code § 13000 et seq.	NPDES program implemented by SWRCB	Regulates wastewater discharges to surface and groundwater of California.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies to regulate wastewater discharges to surface and groundwater of California.
22 CCR § 66262.34	FCDH	Regulates accumulation periods for hazardous waste generators. Typically hazardous waste cannot be stored onsite for more than 90 days.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will apply for a USEPA hazardous waste generator identification number and follow all regulations concerning hazardous waste generators.
California Hazardous Waste Control Law, California Health and Safety Code § 251 00 et seq.	Implemented by the County of FCDCH, Environmental Health Division	Regulates hazardous waste handling and storage.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies to regulate hazardous waste handling and storage.
Local			
Fresno county Department of Community Health (FCDCH), Environmental Health Division	FCDCH	Regulates enforcement responsibility for the implementation of Title 23, Division3, Chapters 16 and 18 or the CCR, as it relates to hazardous material storage and petroleum UST cleanup.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies to regulate hazardous material storage and petroleum UST cleanup.

**Table 3.13-1
LORS Applicable to Waste Management
(Continued)**

LORS	Administering Agency	Applicability	Project Compliance
FCDCH, Environmental Health Division	FCDCH	Regulates hazardous waste generator permitting, and hazardous waste handling and storage.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies regarding hazardous waste generator permitting, and hazardous waste handling regulations.
Fresno County General Plan Public Facilities Element	County of Fresno	Will ensure all new development complies with applicable provisions of County Integrated Solid Waste Management Plan	No change to Project compliance with this requirement would occur with approval of this Amendment. Project will develop plans and policies that comply with applicable provisions of County Integrated Solid Waste Management Plan.

3.13.6 Conclusions

The conclusions regarding the significance of impacts that were presented in Section 5.14, Waste Management, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental change to the Midway Project. The proposed incremental change to the Midway Project will not cause significant impacts to waste management.

3.14 HAZARDOUS MATERIALS

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.15, Hazardous Materials, of the Midway 2006 AFC (06-AFC-10).

3.14.1 Environmental Baseline

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of the proposed incremental change to the Midway Project.

3.14.2 Environmental Consequences

The only appreciable physical change associated with the proposed incremental change to the Midway Project that may change the impacts of hazardous materials stored or handled on the Midway site will be the elimination of one of the two 12,000 gallon aqueous ammonia storage tanks that were included in the Midway 2006 AFC. This will reduce the likelihood of the most serious potential spill scenario for this chemical (failure of a storage tank), which will offset the higher probability of a smaller release from truck unloading operations due to the higher number of annual deliveries that will be required. The results of the offsite consequence analysis modeling for a worst-case release of aqueous ammonia would be the same as reported in the Midway 2006 AFC, since the two scenarios that were assessed (failure of one 12,000 gallon tank and a break in the unloading line during storage tank loading) are unchanged. Maximum off-site impacts would decrease slightly, because of the slight relocation of the remaining storage tank a short distance to the northwest, i.e. further from the nearby Wellhead Power Plant.

The engineering/design company has confirmed that the quantities of the other chemicals listed in Table 5.15-1 of the Midway 2006 AFC will not change, and that their storage locations will not undergo more than minimal relocation as a result of the proposed incremental change to the Midway Project.

3.14.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.15, Hazardous Materials, of the Midway 2006 AFC. No increased hazardous materials impacts would result from the approval of the proposed incremental change. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.14.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to hazardous materials handling.

3.14.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to hazardous materials. Table 3.14-1 presents the LORS related to hazardous materials.

**Table 3.14-1
LORS Applicable To Hazardous Materials**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
Clean Air Act, Section 112(r), Title 40CFR Part 68	USEPA Fresno County Department of Community Health	Requires an RMP if listed hazardous materials are stored above threshold quantities (TQ).	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will prepare an RMP prior to Fresno County Department of Community Health prior to introducing aqueous ammonia to the site.
Superfund Amendments and Reauthorization Act (SARA) Title III, Section 302, Emergency Planning and Community Right-to-Know Act (EPCRA)	USEPA California Office of Emergency Services Fresno County Department of Community Health	Requires certain planning activities when Extremely Hazardous Substances (EHSs) are present in excess of TQ.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will prepare plans for proper handling of EHSs in excess of TQ. Project owner will prepare an RMP and Hazardous Materials Business Plan (HMBP).
SARA Title III, Section 304, EPCRA	EPA OES Fresno County Department of Community Health	Requires notification if there is a release of hazardous materials in excess of reportable quantity (RQ).	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will notify appropriate agencies of hazardous material releases above RQ.
SARA Title III, Section 311, EPCRA	USEPA OES Fresno County Department of Community Health, Fresno County Fire Department Mendota Station 96	MSDSs to be kept onsite for each hazardous material. Required to be submitted to the local fire department.	No change to Project compliance with this requirement would occur with approval of this Amendment. MSDS for hazardous substances on the site will be maintained at the Midway site and submitted to appropriate fire department.
SARA Title III, Section 313, EPCRA	USEPA	Requires annual reporting of releases of hazardous materials.	No change to Project compliance with this requirement would occur with approval of this Amendment. The HMBP will describe release reporting procedures. Project owner will prepare annual reports of hazardous material releases for submittal to appropriate agencies.

Table 3.14-1
LORS Applicable To Hazardous Materials Handling
(Continued)

LORS	Administering Agency	Requirement	Project Compliance
29 CFR, Section 191 0.120, Occupational Safety and Health Administration (OSHA); Cal/OSHA	OSHA, CalOSHA	Describes worker safety and health procedures and safe handling of hazardous materials and wastes.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will provide training to on-site personnel and establish standard operating procedures for compliance with OSHA requirements.
U.S. DOT Regulations, 49 CFR 171-177	USDOT, Caltrans	Governs the transportation of hazardous materials, including the marking of the transportation vehicles.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will ensure that contractor delivering aqueous ammonia to site implements compliant vehicle standards and driver training for transport and labeling of hazardous materials.
State			
Health and Safety Code Section 25500, et seq. (Waters Bill)	Fresno County Department of Community Health	Requires preparation of an HMBP where hazardous materials are handled or stored in excess of TQs.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will notify prepare a HMBP for hazardous materials handled or stored in quantities above TQ.
Health and Safety Code Section 25531, et seq. (La Follette Bill)	Fresno County Department of Community Health (CUPA Agency)	Requires registration of facility with local authorities and preparation of a Risk Management Plan if hazardous materials stored or handled in excess of TQs.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will register with Fresno County Department of Community Health and prepare an RMP for submittal to this agency prior to introducing aqueous ammonia to the site.
CCR, Title 8, Section 5189	CalOSHA	Facility owners are required to implement safety management plan to ensure safe handling of hazardous materials.	No change to Project compliance with this requirement would occur with approval of this Amendment. Facility will establish and implement adequate safety management procedures to ensure compliance.
California Uniform Building Code	Fresno County Building Department	Requirements regarding the storage and handling of hazardous materials.	No change to Project compliance with this requirement would occur with approval of this Amendment. Facility will comply with building code requirements for hazardous materials storage and handling facilities.
California Government Code Section	Fresno County Department of Community Health	Restricts issuance of COD until facility has submitted an RMP.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will register with

**Table 3.14-1
LORS Applicable To Hazardous Materials Handling
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
65850.2	(CUPA Agency)		Fresno County Department of Community Health and prepare an RMP for submittal to this agency prior to introducing aqueous ammonia to the site.
Local			
California Health and Safety Code, Division 20, Chapter 6.95, California Accidental Release Prevention Program (CalARP)	OES Fresno County Department of Community Health	Requires new/modified businesses to complete a hazardous materials business, and RMP prior to final plan/permit approval.	No change to Project compliance with this requirement would occur with approval of this Amendment. Project owner will register with Fresno County Department of Community Health and prepare a hazardous materials business plan and an RMP for submittal to this agency.
Industry Standards			
Uniform Fire Code, (Articles 79 and 80)	Fresno County Fire Department	Requirements for secondary containment, monitoring, etc. for extremely hazardous materials.	Project owner will provide compliant secondary containment and monitoring equipment and accident response procedures for aqueous ammonia stored on site.

3.14.6 Conclusions

The proposed incremental change to the Midway Project will not change the significance of Project impacts due to hazardous materials unloading, storage, and handling facilities. Thus the Midway 2006 AFC finding that such impacts will be less than significance is unchanged.

3.15 PUBLIC HEALTH AND SAFETY

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.16, Public Health and Safety, of the Midway 2006 AFC (06-AFC-10).

3.15.1 Environmental Baseline

The discussion on the environmental baseline in the Midway 2006 AFC is adequate to describe the baseline conditions for purposes of the proposed incremental change to the Midway Project.

3.15.2 Environmental Consequences

The only project modifications with the potential to affect the Midway 2006 AFC evaluation of project impacts to public health and safety are the proposed changes to the locations and dimensions of the new gas turbine stacks. The specific changes are:

- Exhaust Stack 1 will be moved with the entire Unit 1 generating package 19 feet west of the previously permitted location.
- Both Exhaust Stacks 1 and 2 will be moved 16 feet south of the previously permitted location, based on detailed design of the selected equipment and an increase in exhaust silencer size to ensure proper acoustic performance.
- The height of both Exhaust Stacks 1 and 2 will be increased from 50 feet to 68 feet above local grade, based on ductwork design and to locate sampling ports in accordance with the requirements of 40 CFR Part 60.

These changes would not change the operational emissions of any criteria pollutant or toxic air contaminant, nor the flow rate of turbine exhaust to the atmosphere. Given that the gas turbines are the only stationary sources of toxic air contaminants associated with the operational project, and the fact that the nature of the changes would decrease off-site impacts from these sources, it was concluded that the health risk assessment modeling presented in the Midway 2006 AFC does not need to be repeated. The CEC Air Quality staff was contacted to determine whether additional modeling for air quality and public health is unnecessary for this proposed incremental change. Mr. Will Walters responded by e-mail to John Lague of URS on March 31, 2008 and confirmed that re-modeling would result in negligible changes to the air quality and health risk assessment modeling results reported in the Midway 2006 AFC. Therefore the assessment of environmental consequences presented in the Midway 2006 AFC is adequate to represent project impacts to public health and safety with the proposed incremental change to the Midway Project.

3.15.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.16, Public Health and Safety, of the Midway 2006 AFC. No increased impacts to public health and safety would result from the approval of this Amendment. Therefore, no

additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.15.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to public health.

3.15.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to Public Health. Table 3.15-1 presents the LORS related to public health.

**Table 3.15-1
LORS Applicable to Public Health**

LORS	Administering Agency	Requirement	Project Compliance
Clean Air Act (CAA)	USEPA CARB SJVAPCD	Protect public from unhealthful exposure from air pollutants.	No change to Project compliance with this requirement would occur with approval of this Amendment. Based on the results of the risk assessment, air toxics do not exceed acceptable levels. Emissions of criteria pollutants will be minimized by applying BACT to the facility sources. Increases in emissions of nonattainment pollutants and their precursors will be fully offset.
California Public Resource Code § 25523(a); 20 CCR § 1752.5, 2300-2309, and Division 2 Chapter 5, Article 1, Appendix B, Part(1)	CEC	Assure protection of environmental quality, requires quantitative HRA.	The HRA presented in the Midway 2006 AFC, Public Health and Safety section (Section 5.16) satisfies this requirement. The proposed incremental changes would not alter this conclusion.
California Clean Air Act, TAC Program, H&SC § 39650, et seq.	SJVAPCD with CARB oversight	Requires quantification of TAC emissions, use of BACT, and preparation of an HRA.	The project will not cause unsafe exposure to TACs based on results of an HRA, and has performed a BACT assessment. The proposed incremental changes would not alter this conclusion.

Table 3.15-1
Summary of Compliance with Public Health LORS
(Continued)

LORS	Administering Agency	Requirement	Project Compliance
H&SC, Part 6, § 44300 et seq. (Air Toxics "Hot Spots")	SJVAPCD with CARB/OEHHA oversight	Regulates public exposure to air toxics. Requires inventory of TACs and HRA.	The HRA presented in Midway 2006 AFC, Section 5.16, Public Health and Safety, of this application satisfies this requirement. The proposed incremental changes would not alter this conclusion.
H&SC § 41700	SJVAPCD with CARB oversight	Prohibits emissions in quantities that adversely affect public health, other businesses or property.	Midway 2006 AFC, Section 5.2, Air Quality, and the HRA presented in Section 5.16 of the application satisfy this requirement. The proposed incremental changes would not alter this conclusion.
Integrated Air Toxic Program	SJVAPCD	Integrates the all state and federal TAC requirements, primarily "Hot Spots" and California Airborne Toxic Control Measures (ATCM).	Midway 2006 AFC, Section 5.16, Public Health and Safety and Section 5.2, Air Quality presented in this application satisfy this requirement. The proposed incremental changes would not alter this conclusion.
SJVAPCD Rule 3110	SJVAPCD	Requires annual fees for the Air Toxic "Hot Spots" (AB2588).	The project owner will pay annual AB2588 fees, as required by this Rule. The proposed incremental changes would not alter this conclusion.
SJVAPCD Rule 4102	SJVAPCD	No source shall cause injury, detriment, nuisance or annoyance to the public, which could endanger their comfort, repose, health and safety, or property.	Midway 2006 AFC, Section 5.2, Air Quality, and the HRA presented in the Section 5.16, demonstrate that the project will satisfy the requirements of this Rule. The proposed incremental changes would not alter this conclusion.

Notes:

BACT= Best Available Control Technology
 CARB = California Air Resources Board
 CEC = California Energy Commission
 HRA = Health Risk Assessment

OEHHA = Office of Environmental Health Hazard Assessment
 SJVAPCD = San Joaquin Valley Air Pollution Control District
 TAC = Toxic air contaminant
 USEPA = United States Environmental Protection Agency

3.15.6 Conclusions

The conclusions regarding the significance of project impacts that were presented in Section 5.16, Public Health and Safety, of the Midway 2006 AFC are unaltered by implementation of the proposed incremental changes, i.e., the project will not cause a significant impact to public health and safety.

3.16 WORKER SAFETY

The proposed incremental change to the Midway Project, as described in Section 2.0, Description of Project Amendment, would not involve substantial changes to the findings and conclusions in Section 5.17, Worker Safety, of the Midway 2006 AFC (06-AFC-10).

3.16.1 Environmental Baseline

The proposed incremental change to the Midway Project includes the elimination of an aqueous ammonia tank on-site. Descriptions of the Midway Project and all safety features are present in Section 5.17, Worker Safety, of the Midway 2006 AFC. Descriptions of hazardous materials and wastes to be used and stored on the site are discussed in Section 3.14, Hazardous Materials, and Section 3.13, Waste Management, of the Midway 2006 AFC.

3.16.2 Environmental Consequences

Construction, operation, and maintenance activities may expose workers to the hazards identified in Table 5.17-1 in Section 5.17, Worker Safety, of the Midway 2006 AFC. The proposed incremental change to the Midway Project does not involve substantial changes to these hazards, hence they can be minimized through adherence to appropriate engineering design criteria and administrative controls, use of applicable PPE, and compliance with all applicable health and safety LORS. The elimination of an aqueous ammonia tank could improve worker safety by reducing the amount of hazardous materials present on the site. Section 5.17, Worker Safety, of the Midway 2006 AFC encompasses a comprehensive health, safety and fire prevention program and an accident/injury prevention program intended to ensure healthful and safe operations at the Midway Project. The proposed incremental change to the Midway Project would not involve any substantial changes to the findings and conclusions of that section.

3.16.3 Mitigation Measures

The proposed incremental change to the Midway Project would not substantially change findings and conclusions discussed in Section 5.17, Worker Safety, of the Midway 2006 AFC. No increased impacts to worker safety would result from the approval of this Amendment. Therefore, no additional mitigation measures are recommended; consistent with the Commission Decision for the Midway 2006 AFC.

3.16.4 Cumulative Impacts

Construction and operation of the Project, as amended, will not induce any significant cumulative impacts with respect to worker safety.

3.16.5 Compliance with LORS

Construction and operation of the Project, as amended, will conform with all applicable LORS related to worker safety. Table 3.16-1 presents the LORS related to worker safety.

**Table 3.16-1
LORS Applicable to Worker Safety**

LORS	Administering Agency	Requirement	Project Compliance
Federal			
Occupational Health & Safety Act of 1970 (OSHA), 29 USC 651 et seq.; 29 CFR 191.0 et seq.; and 29 CFR 1926 seq.	OSHA and DOSH (or Cal-OSHA)	Meet employee health and safety standards for general industry and the construction industry.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will develop plans and policies to meet employee health and safety standards for general industry and the construction industry.
Department of Labor, Safety and Health Regulations for Construction Promulgated Under Section 333 of the Contract Work Hours and Safety Standards Act, 40 USC 327 et seq.	OSHA and DOSH (or Cal-OSHA)	Meet employee health and safety standards for construction activities. Requirements addressed by CCR Title 8, General Construction Safety Orders.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will develop plans and policies to meet employee health and safety standards for construction activities.
National Fire Protection Association (See Table 7.4-1 for list of standards)	FCFPD	Meet standards necessary to establish a reasonable level of safety and property protection from the hazards created by fire and explosion.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will develop plans and policies to meet standards necessary to establish a reasonable level of safety and property protection from the hazards created by fire and explosion.
State			
California Code of Regulations, Title 8	Cal-OSHA	Meet requirements for a safe and hazard-free working environment. Categories of requirements include General Industry Safety Orders, General Construction Safety Orders, Electrical Safety Orders.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will develop plans and policies to meet requirements for a safe and hazard-free working environment. Categories of requirements include General Industry Safety Orders, General Construction Safety Orders, Electrical Safety Orders.
California Clean Air Act, California Health & Safety Code 39650 et seq.	Cal-OSHA	Meet requirements for Best Available Control Technology to minimize exposure limits to toxic air pollutants and possible risk assessments for	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will meet requirements for Best Available Control Technology

**Table 3.16-1
LORS Applicable to Worker Safety
(Continued)**

LORS	Administering Agency	Requirement	Project Compliance
		carcinogen pollutants.	to minimize exposure limits to toxic air pollutants and possible risk assessments for carcinogen pollutants.
California Public Resources § 25523(a); 20 CCR § 1752, 1752.5, 2300.2309, and Division 2, Chapter 5, Article 1, Appendix B, Part (1), California Energy Commission (CEC)	Cal-OSHA	Protect environmental quality and assure public health.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will Protect environmental quality and assure public health.
California Health and Safety Code § 25500 to 25541; 19 CCR §§ 2720-2734	Cal-OSHA	Estimate emissions for listed air toxic pollutants and submit inventory to air district for major sources of criteria air pollutants. Follow-up from air district may require a health risk assessment.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will estimate emissions for listed air toxic pollutants and submit inventory to air district for major sources of criteria air pollutants. Midway will follow-up from air district may require a health risk assessment, if needed.
Local			
Fresno County Zoning Ordinance	Fresno County Fire Protection Division	Provide safety setbacks as required by the Fresno County Fire Protection Division.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will provide safety setbacks as required by the Fresno County Fire Protection Division.
Fresno County Department of Community Health, Environmental Health Division	Fresno County Department of Community Health, Environmental Health Division	Provide implementation of the Hazardous Materials Business Plan and Risk Management Plan.	No change to Project compliance with this requirement would occur with approval of this Amendment. Midway will implement the Hazardous Materials Business Plan and Risk management Plan.

3.16.6 Conclusions

The proposed incremental change to the Midway Project would not involve substantial changes to the findings and conclusions in Section 5.17, Worker Safety, of the Midway 2006 AFC.

SECTION 4 PROPOSED MODIFICATIONS TO THE CONDITIONS OF CERTIFICATE*WATER RESOURCES-1:*

Water used for project operation for process, sanitary and landscape irrigation purposes shall be groundwater from the upper semiconfined aquifer obtained from the ~~adjacent CalPeak~~ on-site groundwater well and/or Baker Farms irrigation water filter backwash (backwash water). Water use shall not exceed the annual water-use limit of 136 acre-feet without prior approval by the CPM. The project owner shall monitor and record the total water used on a monthly basis. If the amount of water to be used will exceed 136 acre-feet per year during any annual reporting period, the project owner shall provide a written request and explanation for the anticipated water-use increase to the CPM sixty (60) days prior to the date when the water-use limit is expected to be exceeded. If the project owner can demonstrate that the requested increase is necessary and is not caused by wasteful practices or malfunctions in the water processing systems, the CPM shall approve an up to one-year increase in the water-use limit for the period requested.

SECTION 5 POTENTIAL EFFECTS ON THE PUBLIC

This section addresses potential effects on the public from the proposed incremental change to the Midway Project, pursuant to the CEC's Siting Regulations (Title 1769[a][1][H]). Fresno County is a rapidly developing area and shortages of electricity can impose the risk of serious adverse impacts on the public.

The proposed incremental change to the Midway Project will benefit the public by providing power during periods of high demand to meet increasing electricity requirements associated with the growth of this region. The Project would not require a change to the Project area, and would not be situated closer to nearby property owners. The entire 5.16-acre Project site was previously examined in the Midway 2006 AFC. No increased impacts on the public relating to any of the environmental disciplines will be caused by the proposed incremental change to the Midway Project.

SECTION 6 LIST OF PROPERTY OWNERS

Consistent with the CEC Siting Regulations Section 1769(a)(1)(H), this section lists the property owners affected by the proposed incremental change to the Midway Project. The proposed modifications do not change the list of affected property owners previously submitted in the Midway 2006 AFC (06-AFC-10). The list of property owners is presented below.

Ownership Information	Inst #	Date Rec.
02706053S		
Narr - SUR RTS 17.88 ACS IN N1/2 SEC 5 T15R13		
Loc - 043405 PANOCH RD FIREBAUGH		
VAQUERO FARMS INC	112227	19831201
2800 W MARCH LM #330 STOCKTON CA 95219		
02706054S		
Narr - SUR RTS 163.53 AC IN N1/2 SEC 5 T15R13		
Site -		
PRUETT GREGORY R ASOPERATION TRUSTEE	179790	19991217
HYCKE CINDY PREUTT DISPOSITION TRUSTEE	179790	19991217
PRUETT GREGORY R DISPOSITION TRUSTEE -	179790	19991217
OF C P HUCKE IRREVOC TR DTD 2-18-97	179790	19991217
(CR 3179790 12-17-99)	064309	19970519
2800 W MARCH LM #330 STOCKTON CA 95219		
02706056S		
Narr - SUR RTS 120.32 AC IN SECS 5 & 6 T15R13		
Loc - 043946 W PANOCH RD FIREBAUGH		
FARMERS INERNATIONAL INC	016911	20040123
1260 MUIR AVE CHICO CA 95973		
02706061SU		
02706077S		
Narr - SUR RT 64.24 AC IN NE1/4 SEC 5 T15R13		
Site -		
HANSEN ROBERT TRUSTEE -	118104	19900928
HANSEN ROBERT TRUSTEE -	000000	19900928
OF SMARLA BAKER U/T/D 6-13-78	118104	19900928
% PANOCH FIELDS PO BOX 867		
FIREBAUGH CA 93622		

SECTION SIX

List of Property Owners

Ownership Information	Inst #	Date Rec.
02706078S		
Narr - SUR RTS 128.49 AC IN W1/2 SEC 5 T15R13		
Loc - 043649 W PANOCHE RD FIREBAUGH		
PAO INVESTMENTS LLC	061258	19060324
45499 W PANOCHE RD FIREBAUGH CA 93622		
02706079S		
Narr - SUR RT 160 AC SE1/4 SEC 5 T15R13		
Site -		
BAKER BARRY S TRUSTEE	159044	20001228
MC DOUGAL JUDITH M TRUSTEE -	159044	20001228
OF J R BAKER 1/U/D DTD 11-1-00	159044	20001228
PO BOX 867 FIREBAUGH CA 93622		

SECTION 7 POTENTIAL EFFECTS ON PROPERTY OWNERS

This section addresses potential effects of the proposed incremental change to the Midway Project on nearby property owners, the public, and parties in the application proceeding, per CEC Siting Regulations ((Title 1769[a][1][H])).

The proposed incremental change to the Midway Project would not require a change to the project area, and would not be situated substantially closer to property owners. The Midway Project is contained in a 5.6-acre site within a 128-acre parcel of land. This entire parcel was previously examined in the Midway 2006 AFC (06-AFC-10). The proposed incremental change to the Midway Project would not involve substantial changes; therefore new significant impacts from proposed incremental change are not anticipated.