

DOCKET

09-AFC-3

DATE MAY 04 2010

RECD. MAY 04 2010

Robert Sarvey
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State of California
State Energy Resources Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-03
)	
Mariposa Energy Project)	Motion to Compel Data Responses
)	
)	
_____)	

Factual Background

On March 15, 2010 Intervenor Sarvey served the applicant Mariposa Energy with several data requests related to information necessary to fully understand the project and its impacts to the environment. On April 2, 2010 the applicant objected to the data requests based on Section 1716(e) of the Commission's regulations (Cal. Code Regs., tit. 20 § 1716) Which provides: "All requests for information shall be submitted no later than 180 days from the date the commission determines an application is complete, unless the committee allows requests for information at a later time for good cause shown." (§ 1716(e). Applicant said at that time it would respond to all but six of the data requests.¹ To date the applicant has provided no responses.

¹ [Applicant's Objections to Robert Sarvey Data Request Set 2](#). Posted April 30, 2010. (PDF file, 5 pages, 36 kb)

"Although Set 2 is an untimely request for information, Applicant will respond to those specific requests which are relevant and for which information is reasonably available. Without waiving Applicant's right to object to the untimely requests, the Applicant will respond to the requests in Set 2 except for five requests that are not relevant or for which information is not reasonably available: Requests 10, 11, 42, 44 and an un-numbered request between requests 13 and 14."

Section 1716 (g) provides that, A party petitioning the committee for an order to provide information must do so within either 30 days of being informed in writing by the responding party that such information will not be provided or within 30 days of the date the information was provided or was due. The information that Intervenor was requesting was due on April 15, 2010. The petitioner is exercising his right under Section 1716 since no information has been provided by the applicant.

Relief Requested

Intervenor hereby requests that the Committee compel the applicant to respond to the March 15, 2010 data requests filed by the Intervenor for the following reasons which demonstrate good cause. Section 1716 limits data requests to six months from the date the application is deemed data adequate. The six month deadline would be appropriate for a project which was being processed on a twelve month schedule where all information requested was provided in a timely manner. This project has been placed on an eighteen month schedule and the applicant is not prejudiced by receiving data requests on March 15, 2010 which is 20 days past the timeline provided by Section 1716.

Further the CEC staff issued data requests on March 4, 2010 which the applicant did not object to and answered on April 13, 2010. The CEC staffs latest status report indicates that some information which was requested over five months ago has still not been submitted.²

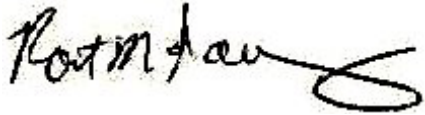
Much of the information requested in the second set of data requests filed on March 15, 2010 were follow up questions from the applicant's responses to the Intervenor's first set of data requests which the applicant provided on February 18, 2010.

The committee schedule called for the FDOC to be issued on February 22, 2010 but at this time even the Preliminary Determination of Compliance has not even been issued so it is certainly inappropriate to end the discovery period before the PDOC has been issued.

For the reasons above which demonstrate good cause the applicant should be compelled to respond to Intervenor's second set of data requests.

² Contra Costa airport Land Use commissions submitted 8 data requests on November 30, 2009 which remain unanswered. [Letter from Contra Costa Airport Land Use Commission](#). Posted: December 1, 2009. (PDF file, 7 pgs, **1.2 mb**)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Sarvey". The signature is fluid and cursive, with a long, sweeping tail that loops back under the name.

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DECLARATION OF SERVICE

I, Robert Sarvey declare that on May 4 , 2010 I served and filed copies of the attached Mariposa Energy Project (MEP) (09-AFC-3) Motion to Compel data responses, dated May 4, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[\[http://www.energy.ca.gov/sitingcases/mariposa/index.html\]](http://www.energy.ca.gov/sitingcases/mariposa/index.html).

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

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

by personal delivery or by depositing in the United States mail at Sacramento,

California, with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

 x sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 09-AFC-3

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

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