

CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION****DOCKET
80-AFC-1C**

DATE AUG 25 2010

RECD. SEP 16 2010

In the Matter of:) **Docket No. 80-AFC-1C**

SONOMA GEOTHERMAL POWER) **Order No. 10-0825-1a**

PROJECT)

) **ORDER APPROVING**

) Termination of the MOU and LOU

GESYERS POWER COMPANY) Between the Energy Commission and

) the United States Geological Survey;

) and Amendment of the Final Decision

BACKGROUND

The Sonoma Geothermal Power Project (Project) is a 72 MW geothermal power plant located in Sonoma County. The Project was licensed in March 1981 and is now owned by Geysers Power Company. Prior to the Project being licensed, a Memorandum of Understanding (MOU) dated February 27, 1980 with the California Energy Commission (Energy Commission), U.S. Geological Survey (USGS), and the Bureau of Land Management (BLM) was prepared to create a cooperative effort for NEPA and CEQA compliance. In the Final Decision, USGS is listed as the agency with primary compliance oversight authority. The Compliance Plan published in March of 1981 provided that the USGS is responsible for “implementing the approved [Compliance Monitoring] program after the Energy Commission’s certification is completed”.

On February 3, 1981, a Letter of Understanding (LOU) was signed by the Energy Commission and USGS to further clarify duties and responsibilities of the agencies following the issuance of the licenses and approvals for the Project. The LOU states that the ultimate decision-making authority over the operation of the facility resides with the USGS and the BLM. The LOU required Plans of Operation, Applications for Permits, reports, designs, and similar documents to be submitted to the USGS and reviewed by the Energy Commission.

On May 24, 2010, the USGS sent a letter to the Energy Commission Compliance Program Manager (CPM) that stated that their agency no longer oversees or manages federal land or resources, including the Sonoma Geothermal Project. The letter requested that USGS be removed as the primary compliance monitoring agency as specified in the Final Decision.

DISCUSSION

The Energy Commission has the authority to conduct compliance oversight of the energy generating facilities that it licenses. California Code of Regulations, Title 20, § 1770(a) provides that “[t]he Commission shall provide adequate monitoring of all conditions and measures set

forth in the final decision required to mitigate potential impacts and to assure that the facility is constructed and operated in compliance with all applicable laws including, but not limited to, air quality, water quality, and public health and safety laws, ordinances, regulations, and standards for all projects certified.” The Commission may, as in the current matter, delegate it’s authority for compliance oversight and verification to state and local entities. Cal. Code Regs., tit. 20, § 1770(b). However, § 1770(c) provides that “[i]f a delegate agency is unwilling or unable to participate in this program, the Commission staff shall establish an alternate method of verification.”

The final decision in this matter contemplated that compliance oversight and verification would be delegated to the USGS. The final decision memorialized this agreement, as did the MOU dated February 27, 1980 and LOU dated February 3, 1981.

In its letter to staff dated May 24, 2010, the USGS has requested that the MOU be terminated, and that the final decision be amended to remove USGS as the primary compliance agency. USGS is therefore unwilling or unable to continue its oversight of the facility.

STAFF RECOMMENDATION

Energy Commission staff reviewed the petition and finds that it complies with the requirements of Title 20, Sections 1769(a) and 1770(c) of the California Code of Regulations. Staff recommends that the Commission grant the USGS’ request to terminate the MOU in this matter, removing the USGS as the agency with primary compliance responsibilities. Additionally, Staff recommends that the Commission’s Final Decision be amended to remove reference to the USGS as the agency with primary compliance oversight and verification for the Sonoma Geothermal Power Project. Staff further recommends that the Energy Commission take over as the primary compliance agency for the Sonoma Geothermal Power Project.

ENERGY COMMISSION FINDINGS

Based on staff’s analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

- The petition meets all the filing criteria of Title 20, section 1769(a) of the California Code of Regulations concerning post-certification project modifications;
- The modification will not change the findings in the Energy Commission’s Final Decision pursuant to Title 20, section 1755;
- The project will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources Code section 25525;
- The change will be beneficial to the public and project owner because only one compliance agency will oversee the project thus streamlining compliance activities.

- There has been a substantial change in circumstances since the Energy Commission certification justifying the change because the USGS no longer oversees or manages federal land or resources including the Sonoma Geothermal Power Plant.

CONCLUSION AND ORDER

The Energy Commission hereby adopts the staff's recommendation and approves the USGS' request to terminate the MOU and LOU. The Commission's Final Decision is hereby amended to remove the USGS as the agency having primary compliance oversight and verification for the Sonoma Geothermal Power Plant. Commission staff will henceforth provide adequate monitoring of all conditions and measures set forth in the final decision required to mitigate potential impacts and to assure that the facility has been constructed and is operated in compliance with the conditions of certification as set forth in the Commission's Final Decision.

IT IS SO ORDERED.

Date: August 25, 2010

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION



KAREN DOUGLAS
Chairman