

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

DOCKET 97-AFC-20
DATE <u>APR 14 1999</u>
RECD. <u>MAY 04 1999</u>

In the Matter of:) Docket No.: 97-AFC-2
)
 Application for Certification)
 for the Sutter Power Plant Project) COMMISSION ADOPTION ORDER

This Commission Adoption Order approves the Commission Decision on the Sutter Power Plant Project. It incorporates the Revised Presiding Member's Proposed Decision (Revised PMPD) in the above-captioned matter and the Committee Amendments and Errata thereto, both adopted by the Commission on March 17, 1999. The Order also includes the Commission's official notice of actions taken by the Sutter County Board of Supervisors on March 30, 1999, adopting a general plan amendment, zoning change, and ferrying charge condition. The Commission Decision is based upon the evidentiary record of these proceedings (Docket No. 97-AFC-2) and considers the comments received at the April 14, 1999 Business Meeting. The text of the attached Commission Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and conditions imposed.

This ORDER adopts by reference the text, conditions, compliance verifications, and appendices contained in the Commission Decision. It also adopts specific requirements contained in the Commission Decision which determine that the proposed facility will be designed, sited, and operated in a manner to protect environmental quality, to assure public health and safety, and be designed to operate in a safe and reliable manner.

FINDINGS

The Commission hereby adopts the following Findings in addition to those contained in the text of the Commission Decision:

1. At the Business Meeting of March 17, 1999, the Commission found that the project did not then comply with the Sutter County General Plan and applicable zoning. The Commission also made affirmative findings regarding all other relevant matters required by Public Resources Code section 25523 and the California Environmental Quality Act.

2. On March 30, 1999, the Sutter County Board of Supervisors adopted Resolution No. 99-23, amending the Sutter County General Plan, Ordinance No. 1278, rezoning the project site parcel, and a "ferrying charge" condition reimbursing farmers for certain cropdusting costs related to the project. Amendment No. 97-04, changed the land use designation for the project site from Ag-80 and Ag-20 to Industrial. Ordinance No. 1278 changed the zoning from AG (General Agriculture) to M-2 PD (General Industrial, Combining Planned Development District). The resolution recommends that the Commission make the finding that the Sutter Power Plant complies with local land use regulations and further recommends that the Commission approve the project for construction and operation, subject to the Conditions of Certification contained in the Commission Decision.
3. The Commission hereby takes official notice of the actions of the Sutter County Board of Supervisors in adopting Resolution No. 99-23, Ordinance No. 1278, and the ferrying charge condition thereto. As a result, the Commission finds that the project complies with local land use requirements.
4. This Order supercedes those provisions of Commission Order No. 99-0317-10, adopted March 17, 1999, which noted the project's lack of compliance with local land use ordinances in effect at that time.

ORDER

Therefore, the Commission **ORDERS** the following:

1. The Application for Certification of the Sutter Power Plant Project described in this Decision is hereby approved and a certificate to construct and operate the project is hereby granted.
2. The approval of the Application for Certification is subject to the timely performance of the Conditions of Certification and Compliance Verification enumerated in the accompanying text and Appendices. The Conditions and Compliance Verifications are integrated with this Decision and are not severable therefrom. While Applicant may delegate the performance of a Condition or Verification, the duty to ensure adequate performance of a Condition or Verification may not be delegated.

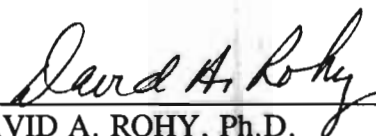
3. For purposes of reconsideration pursuant to Public Resources Code section 25530, this Decision is deemed adopted when filed with the Commission's Docket Unit.
4. For purposes of judicial review pursuant to Public Resources Code section 25531, this Decision is final thirty (30) days after its filing in the absence of the filing of a petition for reconsideration, or if a petition for reconsideration is filed within thirty (30) days, upon the adoption and filing of an Order upon reconsideration with the Commission's Docket Unit.
5. The Commission hereby adopts the Conditions of Certification, Compliance Verifications, and associated dispute resolution procedures as part of this Decision in order to implement the compliance monitoring program required by Public Resources code section 25532.
6. The Executive Director of the Commission shall transmit a copy of this Decision and appropriate accompanying documents as provided by Public Resources Code section 25537 and California Code of Regulation, title 20, section 1768.

Dated: APRIL 14, 1999

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION




WILLIAM J. KEESE
Chairman



DAVID A. ROHY, Ph.D.
Vice Chair



MICHAL C. MOORE
Commissioner



ROBERT A. LAURIE
Commissioner

[VACANT]

Commissioner