

Memorandum

Date January 18, 2008
Telephone: (916) 653-1245

To: Jackalyne Pfannenstiel, Presiding Member
James D. Boyd, Associate Member

From: California Energy Commission – James W. Reede, Jr., Ed.
1516 Ninth Street Project Manager
Sacramento, CA 95814-5512



DOCKET	
06-AFC-4	
DATE	JAN 18 2008
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Subject: **VERNON POWER PLANT PROJECT (06-AFC-4) STATUS REPORT #4**

Pursuant to the Committee Scheduling order, the following is staff's fourth status report on the proposed Vernon Power Plant project (VPP).

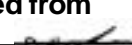
Staff has reviewed the Applicant's October 2, 2007, AFC Supplement "C." Staff had requested that the Committee hold a Status Conference in November 2007. The applicant requested that it be cancelled and no subsequent information has been received from the applicant. The applicant issued Status Report #8 on October 10, 2007, that identified a number of outstanding discovery requests, all of which still remain unresolved.

ISSUES UPDATE

AIR QUALITY

The South Coast Air Quality Management District (District) adopted its proposed amendments to Rule 1309.1 – Priority Reserve on August 3, 2007. These rules limit the eligibility of municipal power plants to use Priority Reserve emission reduction credits (ERCs) in certain areas of the District to an output no greater than native load requirements. The areas in question are the District's Zone 3 and Environmental Justice Areas (EJA). EJA areas are generally communities with low incomes and/or minority group populations. The VPP is located in an EJA encompassing the communities of Huntington Park, **Maywood**, Commerce, and Southgate. The applicant would not have access to Priority Reserve Credits for air quality impacts mitigation at its proposed rating of 943 MW (gross generation capacity) because it exceeds its peak native load requirements of 203 MW established during summer 2007. Additionally, the applicant does not have a power purchase agreement with either Southern California Edison or San Diego Gas & Electric which would allow it to access Priority Reserve Credits. The applicant has been asked over the past nine months how they are going to be able to access Priority Reserve Credits since the project does not appear to meet the District's criteria, and they have replied that they do not intend to reduce the size of the project.

The District has not indicated to staff when they will be issue the Preliminary Determination of Compliance based on the amendments to the Priority Reserve Rule 1309.1.

Proof of Service List (Revised on 1-8-08)
filed with Original Document. Mailed from
Sacramento on 1-18-08 

COOLING TOWER PLUMES

Staff reviewed the applicant's Supplement "C," which reconfigured the site plan to move the cooling tower to the south end of the project site to mitigate the potential traffic safety issues resulting from intermittent ground-hugging plumes that were previously identified.

Staff still has concerns regarding the additional plume-related issue. The owner of a food production facility adjacent to the proposed VPP wrote to the Energy Commission on November 27, 2006, spoke during the April 18th workshop, and intervened in the proceeding after expressing concerns about potential significant impacts of the cooling tower plume and vapor drift related to health, safety, and contamination of the food production process. The applicant has not fully addressed the potential impacts of the cooling tower plumes to the food processing plant in question nor on the eight other food processing facilities which are nearby. The applicant accepted staff's mitigation suggestions of moving the cooling tower to the south end of the project site which may resolve most of the plume-related impacts. This issue will be discussed in detail in the PSA with the appropriate recommendations.

PUBLIC HEALTH

Energy Commission staff is continuing to analyze public health studies to fully characterize potential impacts to the communities surrounding the City of Vernon. The California Air Resources Board (CARB) staff completed its review of the project's Health Risk Assessment on July 11, 2007, as characterized in the AFC.

WASTE MANAGEMENT

On March 27, 2007, the Department of Toxic Substances Control (DTSC) filed a comment letter with the Energy Commission upon completion of its review of the Phase II Environmental Site Assessment that had been submitted by the applicant as a response to a data request. A number of contamination issues were raised along with concerns regarding appropriate remediation of the site.

Staff from the DTSC Permitting and Corrective Action Branch participated in a workshop held on April 18, 2007. DTSC staff indicated that the City of Vernon's Environmental and Public Health Department does not possess the required and appropriate Certified Unified Participating Agency (CUPA) status required for public entities involved in toxic waste remediation activities. The City acknowledged their lack of appropriate CUPA certification. Certification is required for the City to be eligible to review their own corrective action projects or approve Remedial Action Plans for soil or groundwater contamination as required by DTSC and/or the Regional Water Quality Control Board (RWQCB).

DTSC staff informed Energy Commission staff that DTSC may still initiate enforcement action if the applicant does not respond to the outstanding March 27th comment letter and acknowledge DTSC's jurisdiction and oversight for the balance of remediation activities. The applicant will need to provide a schedule and workplan for contaminated soil and groundwater remediation activities with oversight by DTSC and the RWQCB. The applicant has not met with DTSC nor responded to DTSC over the past nine months.

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James D. Boyd, Associate Member
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Energy Commission staff issued data requests on April 24, 2007, to gather the information requested by DTSC. The applicant has asserted that the Energy Commission does not have jurisdiction regarding site remediation. However, it acknowledged during the April 18th workshop that given the degree of characterized site contamination, the remediation activities may continue for a number of years after the City takes possession of the property and should the project be approved, remediation activities will be subject to Energy Commission jurisdiction.

INTERVENORS

Since staff's last Status Report there have been additional intervenors approved that have raised concerns regarding the project. These are the City of Los Angeles, County of Los Angeles, Natural Resources Defense Council, Mothers of East LA, Boyle Heights Homeowners Association, Rite-Way Meats, and two individuals.

STATUS OF DISCOVERY

Some of the issues identified in previous staff filings have not yet been addressed. These areas include: air quality, environmental justice, public health, transmission system engineering, waste management, and cooling tower plumes. Staff issued data requests for additional information regarding outstanding issues in waste management and transmission system engineering areas in late April 2007 to which the applicant has not responded.

The applicant has not yet indicated to Commission staff the preferred alignment route for the transmission line which when identified will cause additional analysis and perhaps new data requests.

SCHEDULE

The progress on the PSA has currently slipped by approximately one year due to lack of timely receipt of information. Many of the previously completed sections written during the spring of 2007 may need to be revised and updated. Given the undetermined date of issuance of the PDOC by the South Coast Air Quality Management District, the schedule for filing of the PSA cannot be estimated. Staff's ability to file a PSA is also predicated upon the applicant filing complete data responses, and receipt of preliminary determinations from all local, state, and federal agencies, including the Preliminary Determination of Compliance from the District.

Given the lack of progress this project has made toward certification in the last nine months, and the uncertainty concerning its ability to access the District's Priority Reserve Credits, staff requests that the project be suspended until the applicant has demonstrated that it can successfully resolve all significant permitting issues, most notably the ability to obtain sufficient emissions reduction offsets. If within six months substantial progress towards resolving the outstanding issues is not demonstrated, then staff recommends that the Committee hold a hearing to consider termination of the application.

ASSIGNED STAFF CHANGES

Mike Monasmith has been assigned Project Manager for the remainder of the proceeding. He replaces James W. Reede, Jr., Ed.D, who is now assigned to the Engineering Office.

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
FOR THE VERNON POWER PLANT PROJECT
BY THE CITY OF VERNON**

**DOCKET NO. 06-AFC-4
PROOF OF SERVICE LIST
(REVISED 1/8/2008)**

INSTRUCTIONS: All parties shall (1) file a printed, original signed document plus 12 copies OR file one original signed document and e-mail the document to the Docket address below, AND (2) all parties shall also send a printed OR electronic copy of the document, plus a proof of service declaration, to each of the entities and individuals on the proof of service list:

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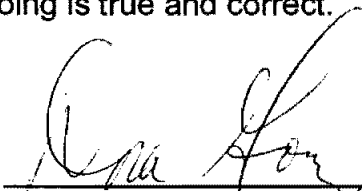
DECLARATION OF SERVICE

I, Dora Gomez, deposited copies of the attached Memorandum for the Vernon Power Plant Project Status Report #4, in the United States mail on January 18, 2008, at Sacramento, CA with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

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

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



Dora Gomez