

Memorandum

Date: April 2, 2007
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To: Jeffrey F. Byron, Presiding Member
James D. Boyd, Associate Member
Paul Kramer, Hearing Officer

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

Subject: **PANOCHÉ ENERGY CENTER PROJECT (06-AFC-5) STATUS REPORT #1**

Pursuant to the Committee Scheduling order, the following is staff's first status report on the proposed Panoche Energy Center (PEC) project. This report is late due to staff's desire to have as up-to-date information as possible to file. Future reports will be filed in a timely manner.

Staff filed Round #2 Data Requests on January 31, 2007. Staff had filed its Issue Identification Report and identified various unresolved issues and the need for additional information in a number of areas on December 4, 2006. The applicant filed all of the Data Responses for Round #2 on March 6, 2007. Staff is currently waiting for supplemental response information from the applicant and draft permits from various agencies, and at this time does not anticipate additional data requests.

Issue Update

Staff is continuing to analyze the potential impacts of the project's proposed underground injection wells and to the San Joaquin kit fox. The applicant met with the US Fish and Wildlife Service (USFWS) on March 16, 2007, to discuss the need for a biological assessment addressing the kit fox. The applicant met with the US Environmental Protection Agency (USEPA) on March 27, 2007, to initiate discussions addressing a Section 7 federal agency consultation process that would require a Biological Opinion from USFWS. These issues will be discussed in detail at a joint Panoche and Starwood Project Data Response Workshop scheduled for April 13, 2007, and in the Preliminary Staff Assessment with the appropriate recommendations.

Status of Discovery

Staff has requested information from the applicant regarding when certain outstanding items will become available and has not received a definitive response. These items are listed below:

1. San Joaquin Valley Air Pollution Control District's (District) issuance of the Preliminary Determination of Compliance (PDOC). The PDOC was originally scheduled for February 27, 2007 but the District does not expect to release the PDOC until early-April.
2. Fresno County's completion of the PEC's Site Plan Review (SPR) where the County lists any conditions they would place on the project, were they the permitting agency. The original due date was March 2, 2007, and staff is pursuing a new date.

3. The findings the County would make, that permits them to determine whether the PEC is consistent with the County zoning code and general plan. These findings are anticipated in early-April.
4. The County Board of Supervisor's agenda item that will include an analysis of the required findings that must be made for partial cancellation of the Williamson Act contract for the parcel containing the project site (pursuant to Government Code Section 51282) and any comments received from the California Department of Conservation on the cancellation. These findings are anticipated in mid-April.
5. The USEPA Underground Injection Well, Draft Drilling Permit. Staff's USEPA contact has not committed to a completion date at this time.
6. Applicant's submittal of a Biological Assessment to USEPA; Consultation request by USEPA to USFWS; and Section 7 Biological Opinion from USFWS. Discussion between the applicant, USEPA and USFWS are ongoing and a final completion date is unknown at this time.

Schedule

The first round of data requests was issued December 8, 2006 and responded to on January 10, 2007. A second round of data requests was issued on February 28, 2007. The applicant's responses were filed on March 6, 2007. Staff is awaiting the outstanding information items listed above without definitive due dates. Since the progress on the PSA has slipped by approximately two months due to lack of timely receipt of this information, the schedule for filing of the PSA is estimated to now be mid-May. This is predicated on the applicant filing additional information in mid-April, and receipt of preliminary determinations from all local, state, and federal agencies, including the PDOC from the District.