

## DOCKETED

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# Alamitos Energy Center

(13-AFC-01)

## Preliminary Staff Assessment Summary of PSA Workshop and Supplemental Comments

Submitted to  
**California Energy Commission**

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# Introduction

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Listed below, for California Energy Commission (Commission) Staff's consideration, are supplemental comments from AES Alamos, LLC (the Applicant or AES) on the Preliminary Staff Assessment (PSA) for the Alamos Energy Center (AEC) Supplemental Application for Certification (SAFC) (13-AFC-01). These comments focus exclusively on the Compliance Conditions and Compliance Monitoring Plan proposed in the PSA.

# Summary of PSA Workshop

The Applicant attended the PSA Workshop conducted by Commission Staff on August 9, 2016. At the PSA Workshop, the Applicant committed to providing Commission Staff additional or clarifying information relating to certain subject areas as outlined below. Where applicable, the transaction number (TN#) for the docketed item is provided. Otherwise, if the information has not yet been docketed, the estimated timeline for docketing the information is provided.

- AIR QUALITY:
  - The Applicant's comments on the Preliminary Determination of Compliance (PDOC) is available at TN# 212724.
  - Cumulative impacts data: As explained at the workshop, the Applicant is still in the process of obtaining information through the South Coast Air Quality Management District's (SCAQMD) Public Records Request process. Certain data has been recently received, which the Applicant is in the process of reviewing, and will be docketed early next week.
- BIOLOGICAL RESOURCES:
  - The survey information relating to the AEC's offsite sewer pipeline is available at TN# 201751. The Applicant also emailed the survey information and qualifications for the biological resources surveyors directly to the Commission Project Manager on August 10, 2016.
- COMPLIANCE:
  - Due to technical difficulties, workshop discussions regarding Compliance were not completed. The Applicant is willing to discuss Compliance issues at an additional workshop with Commission Staff, either telephonically or in person.
  - See the Applicant's comments on Compliance issues below.
- CULTURAL RESOURCES:
  - Additional information regarding the low potential for the existence of unknown archaeological resources at the AEC site will be submitted under a repeated request for confidential designation on or before August 22, 2016.
- NOISE:
  - The calculations for 4-hour L90 background levels presented in AES's PSA comments will be provided by August 17, 2016.
- SOCIOECONOMICS:
  - The Applicant has confirmed that the numbers presented in the Record of Conversation docketed at TN# 210847 are correct.
- VISUAL RESOURCES:
  - In its Initial Comments, the Applicant provided a proposed revision to condition of certification VIS-3 using language from the Final Decision for the Mariposa Energy Project (09-AFC-03). Based on conversations with Commission Staff at the workshop, the Applicant proposes the following revision instead:

~~The planting must occur during the first optimal planting season following site mobilization.~~ **Planting must occur during the optimal planting season, and must be completed no later than 12 months after the start of commercial operation.**

# Compliance Conditions

Page 6-6, Request for Informal Investigation: This section provides that the project owner will be notified by the Compliance Project Manager (CPM) upon receipt of an informal investigation request by “any person or agency”. Please confirm that this notification requirement includes any informal investigation initiated by Commission Staff.

Page 6-6, Emergencies Requiring Immediate Action: This section provides that the CPM may direct the project owner to take appropriate action, including shutdown of the facility, if the CPM “determines there is a situation that constitutes an emergency.” What is the statutory or regulatory basis of a CPM’s authority to instruct a facility to shut down? Will the CPM notify the California Independent System Operator (CAISO) and California Public Utilities Commission (CPUC) that the facility has been directed to shut down? Is there an immediate and availing appeals process?

Page 6-8, Verification Change: The reference should be to section 1770(d) of the Commission’s regulations, not 1770(e). This section should also include language stating that if the project owner objects to the modification, the project owner is entitled to a public hearing on the matter.

Page 6-9, COM-3, Compliance Verification Submittals: This condition should be revised as follows:

**Compliance Verification Submittals.** Verification lead times associated with the start of construction may require the project owner to file submittals during the ~~amendment~~certification process, particularly if construction is planned to commence shortly after certification.

Page 6-14, COM-11, Reporting of Complaints, Notices, and Citations: This condition would require “Prior to the start of construction or closure, the project owner shall send a letter to property owners within one (1) mile of the project, notifying them of a telephone number to contact project representatives with questions, complaints or concerns.” There is no need for public notice prior to closure; therefore, this condition should be revised to apply only prior to the start of construction.

Page 6-15, COM-12, Emergency Response Site Contingency Plan: This condition requires the preparation of a plan that outlines the facility’s coordinated “emergency response and recovery preparedness for a series of reasonably foreseeable emergency events.” What is the scope of the term “unanticipated event” governing the number of agencies, persons, and responders to be identified?

Page 6-17, COM-14, Non-Operation and Repair/Restoration Plans: The Applicant has several concerns with this condition. First, COM-14 requires notice to interested agencies and nearby property owners (nearby not defined) of temporary cessation of operations. The Applicant questions the need to notify nearby property owners of a temporary cessation. Further, how will the “interested agencies” requiring notice be determined, given the Commissions’ preemptive authorities? Second, this condition would restrain the project owner’s ability to temporarily cease operations for a period of longer than three months, and for planned event other than a planned outage. For certain situations, a “Repair/Restoration Plan” may not be applicable, and would require the expenditure of unnecessary resources to prepare. Finally, what is the statutory or regulatory basis for the Executive Director’s authority to “assign suspended status” to a facility and recommend commencement of permanent closure activities? Will the project owner have the ability to object and respond to the Executive Director’s determination? What appeal process is available? The Applicant proposes the following language to address facility closure, and welcomes the opportunity to discuss these issues with Commission Staff.

**COM-14**

**Facility Closure Planning.** To ensure that when a facility ceases operations, temporarily or permanently, that it does so safely and in conformance with all applicable laws, the project owner shall coordinate with the Energy Commission to plan and prepare for such events.

Unplanned temporary closure occurs when the facility ceases operations suddenly or unexpectedly, but at the time of closure the project owner expects or intends that the closure will be temporary. Unplanned permanent closure occurs when the facility ceases operations suddenly or unexpectedly, but at the time of closure the project owner intends or expects that the closure will be permanent.

- A. In the event that the project ceases operations suddenly or unexpectedly and the project owner expects the facility to be out of operation for more than 7 days, the project owner shall notify the CPM as soon as practicable after the project ceases operations and no later than one week from the date the project ceases operations.
- B. Within 7 days after the project owner informs the CPM of any unplanned temporary closure, the project owner shall provide a report to the CPM with a plan for conducting the activities necessary to restore the facility to operations. If non-operation is due to an unplanned incident, temporary repairs and/or corrective actions may be undertaken before the plan is submitted. The plan shall include:
  1. Identification of operational and non-operational components of the plant;
  2. A detailed description of the repair and inspection or restoration activities;
  3. A proposed schedule for completing the repair and inspection or restoration activities;
  4. An assessment of whether or not the proposed activities will require changing, adding, and/or deleting any conditions of certification;
  5. Planned activities during non-operation, including any measures to ensure continued compliance with all conditions of certification and LORS;
  6. Written monthly updates (or other CPM-approved greater intervals) to the CPM for non-operational periods, until operation resumes; and
  7. Projected date for the resumption of operation.
- C. If, at the time of unplanned closure, the project owner expects or intends that the closure will be permanent, the project owner will prepare a permanent closure plan and submit the plan within 60 days of the date the plant ceases operations.

If the project experiences an unplanned temporary closure and the project owner subsequently determines that the temporary closure will become permanent, the project owner will prepare a permanent closure plan and submit the plan within 60 days of the determination of permanent closure.

Page 6-18, COM-15, Facility Closure Plan: The Applicant agrees that the permanent closure of the facility should be conducted in a safe manner and in compliance with then-applicable laws, ordinances, regulations, and standards (LORS). However, it is neither logical nor reasonable to prepare a closure plan for a facility with an expected life of 25 years in the first Annual Compliance Report (ACR) of its operating

life. For example, the applicable LORS that will be in place at the time of closure are not known or knowable, but they will impact that manner in which closure occurs. The condition should not require speculation on future LORS. It is also unclear why COM-15 requires the preparation of a cost estimate for closure for both the provisional closure plan and the final closure plan. The costs of the closure are not relevant to the manner in which closure will occur. Finally, COM-15 requires an extensive environmental review of a planned closure, including an evaluation of alternatives to closure, the feasibility of these alternatives, and an environmental analysis of these alternatives. These requirements are far more burdensome and detailed than what is required under applicable LORS. Demolition permits are typically ministerial, non-discretionary permits that do not trigger California Environmental Quality Act (CEQA) review. The Commission's Permanent Closure Plans should recognize that demolition is not a CEQA "project" as that term of art is defined. The Applicant proposes the following language to address a planned permanent facility closure, and welcomes the opportunity to discuss these issues with Commission Staff.

**COM-15**      **Permanent Closure Plan**

A planned temporary closure for maintenance or repairs does not need to be reported to the CPM, except in the annual report.

If the project owner determines to close the project permanently, the project owner shall inform the CPM as soon as practicable after the determination to permanently close the project is made, and no later than 90 days before the project ceases operations (unless the project has ceased operations due to a sudden or unexpected event, or unless the decision to permanently close the facility is due to a sudden or unexpected event). Within 30 days after notifying the CPM of planned permanent closure, the project owner shall submit a Permanent Closure Plan.

Prior to submittal of the facility's Permanent Closure Plan to the Energy Commission, the project owner and the CPM will hold a meeting to discuss the specific contents of the plan. In the event that significant issues are associated with the plan's approval, the Commission may hold one or more workshops or hearings, before or after submission of the Permanent Closure Plan.

The Permanent Closure Plan shall include, but is not limited to:

1. A statement of specific Final Closure Plan objectives;
2. A comprehensive scope of work for permanent plant closure and, if the project site is to be retained by the project owner, long-term site maintenance activities, with a description and explanation of methods to be used, broken down by phases, including, but not limited to:
  - a. Dismantling and demolition;
  - b. Recycling and site clean-up;
  - c. Impact mitigation, if any, and monitoring, if necessary;
  - d. Site remediation and/or restoration, including ongoing testing or monitoring protocols, if necessary,
  - e. Exterior maintenance, including paint, landscaping and fencing, during demolition and site restoration, if required, and
  - f. Site security and lighting.
  - g. A schedule projecting all phases of closure activities for the power plant site and all appurtenances constructed as part of the Energy Commission-certified project;



- h. An electronic submittal package of all relevant plans, drawings, risk assessments, and maintenance schedules and/or reports, including an above- and below-ground infrastructure inventory map and registered engineer's or DCBO's assessment of demolishing the facility; additionally, for any facility that ceased operation prior to submitting a Permanent Closure Plan and for which only minimal or no maintenance has been done since, a comprehensive condition report focused on identifying potential hazards;
- i. All information additionally required by the facility's conditions of certification applicable to plant closure;
- j. An equipment disposition plan, including:
- k. Recycling and disposal methods for equipment and materials; and
- l. Identification and justification for any equipment and materials that will remain on-site after closure;
- m. A site disposition plan, if applicable, including but not limited to:
  - 1. Proposed rehabilitation, restoration, and/or remediation procedures, as required by applicable LORS, and long-term site maintenance activities.
  - 2. Identification of all current conditions of certification, LORS, federal, state, regional, and local planning efforts applicable to the facility, and proposed strategies for achieving and maintaining compliance during closure;
  - 3. Updated mailing list and Listserv of all responsible agencies and property owners within one (1) mile of the facility;
  - 4. Description of and schedule for security measures and safe shutdown of all non-critical equipment and removal of hazardous materials and waste (see conditions of certification for Public Health, Waste Management, Hazardous Materials Management, and Worker Safety).

The Executive Director may approve the Permanent Closure Plan or may refer the Plan to the full Commission for approval.