

**DOCKETED**

<b>Docket Number:</b>	01-AFC-18C
<b>Project Title:</b>	Henrietta Peaker Project Compliance
<b>TN #:</b>	250963
<b>Document Title:</b>	CEC Report of Conversation
<b>Description:</b>	Henrietta BESS Segregation of Tap & Switch from Overall Project, with Joe Boyer, Middle River Power
<b>Filer:</b>	susan fleming
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	7/7/2023 11:01:16 AM
<b>Docketed Date:</b>	7/7/2023



**Siting, Transmission and Environmental Protection Division**

**FILE:**

**PROJECT TITLE: Henrietta BESS**

**Docket: 01-AFC-18**

**TECHNICAL AREA(S): Soil and Water Resources**

<input type="checkbox"/> Telephone	(760) 912-3007	<input type="checkbox"/> Meeting Location: Via email
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<b>NAME:</b> James Ackerman	<b>DATE:</b> June 23, 2023	<b>TIME:</b> 16:32
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**WITH:** Jon Boyer, Middle River Power

**SUBJECT:** Segregation of Tap & Switch Task from Overall Henrietta BESS Project

**COMMENTS:**

Middle River Power (MRP) requested the CEC to separate the tap & switch tasks from the overall Henrietta BESS project with respect to certain Henrietta Peaker Conditions of Certification (COCs). These included **Water Quality-1, Water Quality-2 and Water Quality-5**, which entail stormwater permitting and monitoring.

The tap & switch work was described as disturbing up to 1,200 feet of soil, much less than the one acre minimum of the Construction General NPDES permit (CGP). A review of CGP requirements indicated that the area of disturbance could be less than an acre if part of a larger project, such as the Henrietta BESS project. In addition, assuming the tap & switch was a linear trenching project based on the description in the request, the possible soil disturbance could be in excess of one acre with a 40 foot wide construction corridor, which is typical for this activity. An email was sent to Mr. Jon Boyer of MRP to present these observations.

In an email reply (June 25, 2023 at 16:20), Mr. Boyer explained that the earthwork associated with the tap & switch task consisted of the installation of (4) support poles, and included a construction plan as additional information.

Upon the detailed clarification submitted by Jon Boyer, I withdrew my objection to the MRP request of separating the tap & switch tasks from the overall Henrietta BESS project in an email on June 26, 2023 at 11:45.

Below is the email chain of this interaction:

**From:** Ackerman, James@Energy  
**Sent:** Monday, June 26, 2023 11:45 AM  
**To:** Jon Boyer <[jboyer@mrpgenco.com](mailto:jboyer@mrpgenco.com)>  
**Cc:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>; Abulaban, Abdel-Karim@Energy <[Abdel-Karim.Abulaban@energy.ca.gov](mailto:Abdel-Karim.Abulaban@energy.ca.gov)>; Turner, Michael@Energy <[Michael.Turner@energy.ca.gov](mailto:Michael.Turner@energy.ca.gov)>; Robert Ray <[r-ray@patchservices.com](mailto:r-ray@patchservices.com)>; Andrew Tankel <[atankel@mrpgenco.com](mailto:atankel@mrpgenco.com)>; Elizabeth Atherton <[eatherton@rinconconsultants.com](mailto:eatherton@rinconconsultants.com)>  
**Subject:** RE: Henrietta Tap and Switch Conditions



Mr. Boyer: Thank you for clarifying the details of the tap and switch project. Since there will not be trenching and limited soil disturbance, and existing BMPs and the SWPPP program is in place, I withdraw my objection to segregating the tap and switch activities from the overall Henrietta BESS project with respect to stormwater impacts.

James Ackerman, PG #6493  
Engineering Geologist  
California Energy Commission  
Siting, Transmission and Environmental Protection Division  
Direct: (530) 878-4966  
Email: [james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov)



**From:** Jon Boyer <[jboyer@mrpgenco.com](mailto:jboyer@mrpgenco.com)>  
**Sent:** Sunday, June 25, 2023 4:20 PM  
**To:** Ackerman, James@Energy <[james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov)>  
**Cc:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>; Abulaban, Abdel-Karim@Energy <[Abdel-Karim.Abulaban@energy.ca.gov](mailto:Abdel-Karim.Abulaban@energy.ca.gov)>; Turner, Michael@Energy <[Michael.Turner@Energy.ca.gov](mailto:Michael.Turner@Energy.ca.gov)>; Robert Ray <[rray@patchservices.com](mailto:rray@patchservices.com)>; Andrew Tankel <[atankel@mrpgenco.com](mailto:atankel@mrpgenco.com)>; Elizabeth Atherton <[eatherton@rinconconsultants.com](mailto:eatherton@rinconconsultants.com)>  
**Subject:** RE: Henrietta Tap and Switch Conditions

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Mr. Ackerman,

Thank you for your response. I wanted to take this time to clarify a few items regarding the tap and switch project.

1. There will be no trenching with the Tap and Switch project. The project consists of the installation of 4 support poles, two of which are to distribute the load and two are to allow for the colocation of the new electrical air switches for the gen-tie.
2. The Tap and Switch project in its entirety will take place on the previously disturbed and graded footprint of the existing Henrietta Peaker Plant and will include collocating on portions of the existing structures to minimize any additional ground disturbances.
- 3.—
4. Surface disturbance for the tap and switch will be significantly less than one acre and is detailed in the general arrangement drawing provided.



Given that the entire Tap and Switch project will take place on the existing peaking site, we believe that the existing plans and BMPs addressed in the Henrietta Peaker Plant's Stormwater Pollution Prevention Plan and Stormwater Monitoring Plan adequately addresses the issues addressed referenced in Water Quality-1 and Water Quality-2. Henrietta Peaker Plant continues to comply with the water monitoring requirements of Water Quality-5, as documented in the annual reports. As the Tap and Switch project lies entirely within the peaking plant footprint, any potential stormwater flows from the Tap and Switch project would flow to the Henrietta Peaking Plant retention basins. It would make little sense to include this project in a new monitoring program for new retention basins as stormwater runoff should have no impact by the proposed minimal additions to the existing previously disturbed footprint. Therefore, we believe the existing BMPs and plans already in place for Water Quality-1, Water Quality-2, and Water Quality 5 at the Henrietta Peaking Plant apply to the Tap and Switch Project.

Please let me know if you have any questions.

---

Jon Boyer | Director of Environmental, Health, and Safety | Middle River Power | C: 760.912.3007

**From:** Ackerman, James@Energy <[james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov)>  
**Sent:** Friday, June 23, 2023 4:32 PM  
**To:** Jon Boyer <[boyer@mrpgenco.com](mailto:boyer@mrpgenco.com)>  
**Cc:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>; Abulaban, Abdel-Karim@Energy <[Abdel-Karim.Abulaban@energy.ca.gov](mailto:Abdel-Karim.Abulaban@energy.ca.gov)>; Turner, Michael@Energy <[Michael.Turner@Energy.ca.gov](mailto:Michael.Turner@Energy.ca.gov)>  
**Subject:** RE: Henrietta Tap and Switch Conditions

You don't often get email from [james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov). [Learn why this is important](#)

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Mr. Boyer: I work with Karim within the Geo-sciences Unit of the Siting, Transmission and Environmental Protection Division on water quality and water resource impacts.

I am responding to your email request of June 2, 2023, to segregate the Tap & Switch activities from the rest of the Henrietta BESS project, specifically with respect to the water quality conditions of certification (COCs).

For reasons I will discuss below, I believe that COCs **WATER QUALITY-1, WATER QUALITY-2 and WATER QUALITY-5** should apply to Tap & Switch activities as part of the overall Henrietta BESS project.

Based on the MRP 6/2/23 email request, I assume the following:



- The Tap & Switch activity is scheduled for August 2023 with a 2-week duration, while Henrietta BESS construction is scheduled to begin in Fall 2023.
- This activity will result in a disturbance of 1,200 linear feet of trench.
- The Tap & Switch task is necessary to support overall Henrietta BESS construction.

Per the table in the MRP 6/2/23 email request, the justification for suspending COCs **WATER QUALITY-1** and **WATER QUALITY-2** appears to be that the project is less than an acre. However, the General NPDES Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (General Permit) as reissued effective September 1, 2023, states in Section II.A that the General Permit covers projects that result in *“a disturbance of one or more acres, or less than one acre but are part of a larger common plan of development”*. In this instance, I would interpret the General Permit to include the Tap & Switch activity to be part of a larger common plan of development as it supports overall Henrietta BESS construction and there are no exceptions for linear underground projects (LUPs) included in Section II.D of the General Permit.

Moreover, if the minimum disturbance under the General Permit (1 acre or 43,560 square feet) is divided by the linear disturbance estimated for the Tap & Switch task (1,200 feet maximum), the result is a construction width of 36.3 feet, which is close to the typical area needed for the use of heavy equipment to support trenching activities.

Likewise, COC **WATER QUALITY-5** was recognized in the petition to amend (PTA) as being applicable to the overall Henrietta BESS project and therefore should be applicable to associated sub-tasks.

Based on my understanding of the General Permit and the certification of the Henrietta Peaker Project, I believe that COCs **WATER QUALITY-1**, **WATER QUALITY-2** and **WATER QUALITY-5** should apply to Tap & Switch activities as part of the Henrietta BESS project.

James Ackerman, PG #6493  
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Email: [james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov)



**From:** Abulaban, Abdel-Karim@Energy <[Abdel-Karim.Abulaban@energy.ca.gov](mailto:Abdel-Karim.Abulaban@energy.ca.gov)>  
**Sent:** Friday, June 23, 2023 11:09 AM  
**To:** Ackerman, James@Energy <[james.ackerman@energy.ca.gov](mailto:james.ackerman@energy.ca.gov)>; Turner, Michael@Energy <[Michael.Turner@Energy.ca.gov](mailto:Michael.Turner@Energy.ca.gov)>  
**Subject:** Fw: Henrietta Tap and Switch Conditions



James and Mike,

Are you okay with the proposed plan?

Karim

---

**From:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>  
**Sent:** Friday, June 23, 2023 8:39 AM  
**To:** Abulaban, Abdel-Karim@Energy <[Abdel-Karim.Abulaban@energy.ca.gov](mailto:Abdel-Karim.Abulaban@energy.ca.gov)>; Fooks, Brett@Energy <[Brett.Fooks@energy.ca.gov](mailto:Brett.Fooks@energy.ca.gov)>; Kerr, Steven@Energy <[Steven.Kerr@energy.ca.gov](mailto:Steven.Kerr@energy.ca.gov)>  
**Subject:** Fwd: Henrietta Tap and Switch Conditions

Is this ok with you all?

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**From:** Jon Boyer <[jboyer@mrpgenco.com](mailto:jboyer@mrpgenco.com)>  
**Sent:** Friday, June 23, 2023 8:31:03 AM  
**To:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>  
**Cc:** Robert Ray <[r-ray@patchservices.com](mailto:r-ray@patchservices.com)>; Elizabeth Atherton <[eatherton@rinconconsultants.com](mailto:eatherton@rinconconsultants.com)>  
**Subject:** RE: Henrietta Tap and Switch Conditions

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Joe,

Just checking back on this from earlier in the month. Is Engineering ok with the approach as listed below? They were for Border. Please confirm.

---

Jon Boyer | Director of Environmental, Health, and Safety | Middle River Power | C: 760.912.3007

**From:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>  
**Sent:** Friday, June 2, 2023 10:01 AM  
**To:** Jon Boyer <[jboyer@mrpgenco.com](mailto:jboyer@mrpgenco.com)>  
**Subject:** Re: Henrietta Tap and Switch Conditions

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Seems ok by me. Will ask Engineering to confirm.



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**From:** Jon Boyer <[jboyer@mrpgenco.com](mailto:jboyer@mrpgenco.com)>  
**Sent:** Friday, June 2, 2023 9:53:47 AM  
**To:** Douglas, Joseph@Energy <[Joseph.Douglas@energy.ca.gov](mailto:Joseph.Douglas@energy.ca.gov)>  
**Cc:** Robert Ray <[rroy@patchservices.com](mailto:rroy@patchservices.com)>; Elizabeth Atherton <[eatherton@rinconconsultants.com](mailto:eatherton@rinconconsultants.com)>  
**Subject:** Henrietta Tap and Switch Conditions

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Joe,

As we plan the necessary items to comply with the CEC Conditions of Certification for the Henrietta BESS Project (01-AFC-18C), we have several questions.

The Tap & Switch work is planned to occur during a planned outage with work scheduled to begin in mid-August 2023, and to last several weeks. Total ground disturbance for the tap and switch work should be less than 1200 feet. The civil work for BESS development is planned to occur in the fall of 2023 following completion of EPC design plans.

We would like to bifurcate the compliance plan related deadlines for several Tap & Switch vs BESS development items, where appropriate, given the applicability of the conditions to the separate Project components. Please see below and let us know if the current plans for these specific items are acceptable. Note that the CEC approved a similar approach for the Border BESS project earlier this year (see attached email).

Condition #	Condition Item	Proposed Schedule/Comments	CEC Response (?)
CIVIL-1	Drainage Plan Approval	-Tap & Switch = NA; minor modifications to paved/developed portions of existing peaker -BESS = 15 days prior to site grading	
WATER QUALITY -1	Erosion Control Plan	-Tap & Switch (<1 acre) = NA -BESS = 60 days prior to construction	
WATER QUALITY -2	Construction SWPPP	-Tap & Switch (<1 acre) = NA -BESS = 60 days prior to construction	
WATER QUALITY -5	Storm Water Runoff Monitoring	-NA; applies to existing Henrietta Peaker operation and existing basin monitoring	
VIS-2	Structure Color Plan	-Tap & Switch = NA (BESS related) -BESS = 60 days prior to construction	
VIS-3	Lighting Restrictions	-Tap & Switch = NA (no lighting planned) -BESS = 60 days prior to construction	
VIS-4	Signage	-Tap & Switch = NA (no signage planned) -BESS = 60 days prior to construction	
TSE-6	Non-conforming Changes for TSE-5	-Tap & Switch = NA (BESS related) -BESS = 60 days prior to construction	



WORKER SAFETY -6	Fire Protection Drawings	-Tap & Switch = NA (BESS related) -BESS = 60 days prior to construction	
WORKER SAFETY -7	Hazard Mitigation Analysis	Tap & Switch = NA (BESS related) BESS = 60 days prior to construction	
WORKER SAFETY -8	Fire Water Supply Plans	Tap & Switch = NA (BESS related) BESS = 60 days prior to construction	

Thank you for your time and consideration of these requests. Let us know if you have any questions or comments. Once we get your responses, we will plan and move forward accordingly.

Kind regards,

---

**Jon Boyer**

Director of Environmental, Health, and Safety | Middle River Power

C: 760-912-3007

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