

## DOCKETED

<b>Docket Number:</b>	79-AFC-04C
<b>Project Title:</b>	Compliance - Application for Certification of DWR Bottlerock Geothermal Project
<b>TN #:</b>	200662
<b>Document Title:</b>	David Coleman and Friends of Cobb Mountain's Second Status Report
<b>Description:</b>	Status Report
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<b>Submitter Role:</b>	Intervenor
<b>Submission Date:</b>	9/30/2013 1:32:50 PM
<b>Docketed Date:</b>	9/30/2013

**STATE OF CALIFORNIA**

**ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION**

In the Matter of: )  
 )  
BOTTLE ROCK POWER, LLC ) Docket No. 79-AFC-04C  
 )  
BOTTLE ROCK GEOTHERMAL )  
POWER PLANT )

**DAVID COLEMAN AND FRIENDS OF  
COBB MOUNTAIN'S SECOND STATUS REPORT**

SEPTEMBER 30, 2013

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Pursuant to the Committees' June 28, 2013 Scheduling Order, Intervenor David Coleman and Friends of Cobb Mountain submit this Status Report.

Intervenor are in general agreement with the Staff's Recommendations contained in the September 2013 Compliance Condition Analysis, as well as the Proposed Compliance Conditions of Certification Amendments. Intervenor, however, have several comments on the Compliance Conditions. Additionally, Intervenor remain concerned that Bottle Rock failed to provide adequate responses to Staffs' Data Requests and that Bottle Rock has refused and failed to address these inadequacies.

**A. COMMENTS ON STAFFS' PROPOSED COMPLIANCE CONDITIONS**

Intervenor request that the adjustments to the surety bond associated with the triennial Provisional Closure Plan be mandatory and not discretionary. To this end, Intervenor propose the following modifications to COM-16 – Closure Financial Assurances:

Within sixty (60) days of the CPM approval of each triennial Provisional Closure Plan Prepared pursuant to COM-15, the surety bond amount ~~may~~ ***shall*** be adjusted to reflect any change in estimated costs, and within thirty (30) of any adjustment the project owner must submit for CEP review and approval all documentation of the adjustment.

Intervenor also request that the Compliance Conditions provide for Bottle Rock to submit three independent estimates of the costs of the Provisional Closure Plan. This will give the Commission's staff the opportunity to compare cost estimates and to ensure that Bottle Rock is not simply submitting a low estimate in order to have a reduced bond requirement. Multiple estimates would allow staff to more fully evaluate the closure costs and to set a bond amount that reflects the actual potential costs.

**B. A Bond and Environmental Insurance Policy are Necessary in Order to Provide Financial Assurance**

Bottle Rock has argued that it should not be required to have a closure bond requirement. Bottle Rock bases its argument on primarily two factors: 1) other

owner/operators are not required to have similar closure bond; and 2) Bottle Rock is more financially stable than in 2001 when the Commission issued the original order. Both arguments are unsupported by the facts and cannot be the basis for removing the bond and environmental insurance requirements.

With respect to the argument that other owner/operators are not required to have similar bond closures. Other owner/operators such as Calpine and Pacific Gas& Electric are large corporations doing business in California with significant assets and other projects covered by the California Energy Commission. Thus, if the situation arose to close one of their geothermal projects, those companies would have sufficient assets to pay for all closure and remediation. Bottle Rock, however, does not have sufficient assets to pay for an unplanned closure or even a planned closure. This project is Bottle Rock's only facility in California and Bottle Rock appears to have no other additional assets. Bottle Rock was formed specifically for the operation of this facility and has provided no evidence that it possesses any other additional assets. Bottle Rock's parent companies, U.S. Renewables Group, RiverStone Holding, and the Carlyle Group have not stepped up to provide legal assurance that they would be responsible for any and all costs associated with plant closure and remediation. Thus, at the present time, Bottle Rock, with no known assets other than the Bottle Rock facility, is the party responsible for funding the plant closure. If the facility requires immediate closure, Bottle Rock does not have sufficient assets to meet its obligations. As such, a bond requirement must exist in order to provide financial assurances to the Commission and the public that sufficient assets exist for plant closure and remediation.

Bottle Rock also argues that it is more financially stable than in 2001 when the Commission issued the original order and bond requirement. Bottle Rock, however, has offered no evidence to support this assertion. Through the process involving the Complaint filed by David Coleman and in this Petition to Amend proceeding, Bottle

Rock has continually refused to provide the Commission and the public information regarding its financial status. While Bottle Rock's president, Brian Harms, has made bold statements regarding Bottle Rock's financial health and status, Bottle Rock has provided no evidence, let alone sufficient evidence, to support these statements. In fact, Bottle Rock has argued that it needs the bond requirement removed in order to access capital and credit so that Bottle Rock can move forward with its significant expansion plans. Thus, Bottle Rock, by its own admission, does not have sufficient assets to cover its expansion, let alone its closure of the facility. As such, the Commission must impose the bond requirement and environmental insurance.

**C. BOTTLE ROCK HAS FAILED TO PROVIDE ADEQUATE RESPONSES TO STAFF'S DATA REQUESTS**

Bottle Rock has taken no action to address its inadequate responses to the Staffs' Data Requests. Despite Staffs' reasonable and relevant Data Requests, Bottle Rock failed to provide adequate responses to several of the Data Requests. Bottle Rock's objections and inadequate responses constitutes a continuation of Bottle Rock's practice to withhold relevant information from the Committee and the public regarding Bottle Rock's operations and ability to meet its financial obligations with respect to decommissioning and site restoration. While Bottle Rock has petitioned the Commission to be relieved of the bond requirement and other financial requirements contained in Order Number 01-0530-07, Bottle Rock refuses to provide critical information for the Committee and the parties to this matter to evaluate the Petition to Amend.

**D. BOTTLE ROCK'S DECOMMISSIONING REPORT ATTEMPTS TO LIMIT THE SCOPE AND LEVEL OF POST-CLOSURE REMEDIATION**

As evidenced by Bottle Rock's objections and responses to the Data Requests, and the amended Decommission Report, Bottle Rock seeks to limit the scope and level of post-closure remediation. Bottle Rock also attempts to limit its responsibility of the site

regarding security and post-closure maintenance. See Intervenors' August 2013 Status Report.

Bottle Rock attempts to limit its closure plan to sometime in the distant future, whereas in evaluating the closure, Commission staff have assumed that closure could occur anytime between now and the next three years. Closure includes demolition and removal of everything except for the turbine generator plant building, water treatment and storage building, and perimeter access roads (which would require ongoing cost of maintenance and security, until an alternative use is implemented). Bottle Rock has objected to such closure requirements and has clearly indicated through its Decommission Plan that the scope of closure is less than that anticipated by Staff.

As for security and post-closure maintenance, Bottle Rock argues that will be the responsibility of the landowner and thus Bottle Rock need not provide that information to the Committee. If Bottle Rock has such an agreement with the landowner, then Bottle Rock should provide the agreement to the Committee and parties. Moreover, even if such agreement exists, there still needs to be a plan for funding post-closure maintenance and security. If Bottle Rock does not take financial responsibility, then the Committee should direct the landowner to submit information that it has the financial capability to fund post-closure maintenance and security. If the landowner cannot provide such assurances, then the Committee should demand such assurances from Bottle Rock.

**E. BOTTLE ROCK'S OBJECTIONS TO THE DATA REQUESTS ARE WITHOUT MERIT**

Intervenors incorporate their comments from the August 2013 Status Report regarding Bottle Rock's objections to the Staffs' Data Requests. As discussed in the August 2013 Status Report, Bottle Rock failed to provide adequate responses and the objections are without merit. To date, Bottle Rock has not corrected its failure to comply with the Data Requests.

**F. CONCLUSION**

Intervenors generally support the Staff's recommendations regarding the bond requirement and environmental insurance. Adjustment of the bond amount, however, should be mandatory based upon the triennial review and not discretionary. The Committee should also direct Bottle Rock to provide adequate responses to the Data Requests.

Dated: September 30, 2013

LAW OFFICE OF DONALD B. MOONEY

By Donald B. Mooney  
Donald B. Mooney  
Attorney for David Coleman and  
Friends of Cobb Mountain

**DECLARATION OF SERVICE**

I, Donald B. Mooney, declare that on August 9, 2013, I served and filed copies of the *David Coleman and Friends of Cobb Mountain's Status Report* dated September 30, 2013. The most recent Proof of Service List, which I copied from the web page for this project at: <http://www.energy.ca.gov>, is attached to this Declaration.

**For service to all other parties and filing with the Docket Unit at the Energy Commission:**

  X   I successfully uploaded the document to the Energy Commission's e-filing system and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.]

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: September 30, 2013

Donald B. Mooney  
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