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Filer:	Kimberly Hellwig
Organization:	Stoel Rives LLP
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ENERGY COMMISSION DECISION

APPLICATION FOR CERTIFICATION FOR THE

SUTTER POWER PLANT PROJECT

DOCKET NO. 97-AFC-2



Gray Davis, Governor

APRIL 1999

**CALIFORNIA
ENERGY
COMMISSION**

P800-99-010

VI. COMPLIANCE

A. FACILITY CLOSURE

This section pertains to plans and Conditions of Certification for the safe and responsible closure of the Sutter Power Plant facility.

The Applicant addressed facility closure in Section 4 of the AFC (Ex. 4), including a discussion of the measures that it would implement to handle temporary or permanent facility closure. The discussion addresses the contingencies, issues, security measures and other steps necessary to remedy and prevent environmental hazards, and protect worker and public health and safety.

In supplementary testimony, presented at the December 1, 1998, evidentiary hearing, Commission staff witness Steve Munro explained that the Staff had examined facility closure issues and costs in each technical area and recommended facility closure conditions in the FSA in its testimony. Staff did not identify the need for a dedicated facility closure fund. (12/1/98 RT 61.)

The witness summarized the uncertainties which complicate the identification of specific closure measures and costs at the present time:

1. It is not known what the characteristics of the environs surrounding the facility will be in 30 years or more when the facility is closed. Those characteristics will have a major bearing on what specific closure measures and mitigation will be necessary to prevent creating a significant environmental impact when the project ceases operation.
2. Although current laws, ordinances, regulations and standards (LORS) are known, it is not known what specific changes and new LORS will be in place at the time of plant closure.
3. It is impossible to know what the conversion or salvage value of the project structures and equipment will be at the time of closure. This prevents determination of the net removal, dismantling, and other closure costs. (Ex. 42, Plant Closure, p. 3.)

Mr. Munro added that the assumption that the Sutter Power Project may retain significant value at the time of closure is supported by recent closure experience involving a project under the Commission's jurisdiction. (*Id.*) The net closure costs in that case, have been relatively low. In addition, the recent divestiture of assets by utility companies in California has demonstrated that power plant equipment and assets retain a significant market value even after 40 years or more of service.

Discussion

There is no evidence in the record which would lead the Commission to conclude that Calpine does not, or will not have the financial resources necessary to carry out any reasonably anticipated closure measures at the time the facility ceases operation.

If in the future Calpine intends to sell the SPP, Calpine would have to petition the Energy Commission which would then conduct a publicly-noticed hearing on the amendment petition. Any subsequent owner would have to establish a willingness and an ability to carry out all Conditions of Certification, including closure conditions and requirements. The transfer of ownership likely would not be approved if the prospective new owner could not demonstrate this commitment.

Because many variables cannot be known until the time of plant closure, the Facility Closure Condition of Certification specifies that 12 months prior to the anticipated cessation of operation of the project, a proposed closure plan must be submitted and a public review process initiated. This process will be used to develop a specific closure plan, necessary mitigation measures, and additional closure conditions, to prevent any significant impacts to the environment and public health and safety. Such a process will involve the Commission, the Staff, other interested state, federal and local agencies, and members of the public. It is only through this process that we will be able to identify the net costs of project closure.

FINDINGS AND CONCLUSION

Based on the weight of the evidence of record, the Commission finds as follows:

1. Temporary closure of the SPP which results from damage to the facility will be largely addressed through emergency procedures set forth in a Risk Management Plan which will be developed based on steps described in Section 8.12.6.4 the AFC. (Ex. 4.)
2. The planned life of the SPP is 30 years. Economic and operational conditions could result in a shorter or longer project life.
3. Because future conditions that would affect decisions regarding plant closure are largely unknown and unknowable at present, it is appropriate to present details of a closure plan to the CEC and to Sutter County when timing of plant closure is not less than 12 months hence.
4. There is no evidence of record to suggest that the Applicant may not be capable of financial responsibility for closure measures.
5. The Conditions of Certification listed below will assure that the project will meet all applicable laws, ordinances, regulations and standards which are likely to apply to future closure of the facility.

We therefore conclude that the project is likely to be eventually closed in an orderly manner which will not pose a danger to the health and safety of the public, nor pose a financial burden on public resources.

CONDITIONS OF CERTIFICATION

CLOSURE-1 Prior to first energizing of the project, the project owner shall submit a contingency plan for dealing with an unplanned and/or sudden facility closure or interruption of operations other than those required for normal maintenance. The contingency plan shall provide for the following:

1. taking immediate steps to secure the facility from trespassing or encroachment;
2. removal of hazardous materials;

3. removal of hazardous wastes for closures more than 90 days in duration;
4. draining of all chemicals from storage tanks and other equipment;
5. the safe shutdown of all equipment; and
6. other necessary or prudent measures.

Verification: At least 90 days prior to first energizing the project, the project owner shall submit to the CPM and to the Assistant Director of Sutter County Community Services Department, Fire and Emergency Services for review and approval a contingency plan identifying the steps that will be taken in case of an unplanned permanent or temporary facility closure.

CLOSURE-2 In the event of an unplanned and/or sudden facility closure or interruption of operations, the project owner shall notify the Energy Commission CPM, as well as other responsible agencies, by telephone or fax within 24 hours.

The project owner shall take all necessary steps to ensure that there is no immediate danger to health and safety to or the environment from materials on the site as provided in the contingency plan described in condition CLOSURE-1.

If the CPM determines that the closure is likely to be permanent or for a duration of more than twelve months, then a plan consistent with the Protocol of Condition CLOSURE-3 below shall be submitted to the CPM within 90 days of the CPM's determination (or other mutually agreed upon period of time).

Verification: The project owner shall maintain on-site the contingency plan required by Condition CLOSURE-1 identifying the steps that will be taken in case of an unplanned permanent or temporary facility closure. Within seven days of any unplanned and/or sudden facility closure or interruption of operations, the project

owner shall submit a letter to the CPM describing the situation, the expected duration, and any planned actions to protect health, safety, and the environment.

CLOSURE-3 In the event of a planned facility closure, at least 12 months (or other mutually agreed-upon period of time) prior to commencing facility closure activities, the project owner shall file a proposed facility closure plan with the Energy Commission for review and approval.

Protocol:

1. The plan shall:
 - a. Identify and discuss the proposed facility closure activities, mitigation measures, and schedule for the power plant site, transmission line corridor, and all other appurtenant facilities constructed as part of the project;
 - b. Identify any facilities or equipment intended to remain on site after closure and the reason therefore, including any potential future use; and
 - c. Address conformance of the plan with all applicable laws, ordinances, regulations standards, local/regional plans in existence at the time of facility closure, and applicable Conditions of Certification.
2. Prior to submittal of the facility closure plan, a meeting shall be held between the project owner and the Commission CPM for the purpose of discussing the specific contents of the plan.
3. In the event that significant issues are associated with the plan's approval, or the desires of local officials or interested parties are inconsistent with the plan, the CPM shall hold one or more workshops and/or the Commission may hold public hearings as part of its approval procedure.

4. The project owner shall not commence facility closure activities, with the exception of measures to eliminate any immediate threats to health and safety or the environment, until Commission approval of the facility closure plan is obtained, and the project owner shall comply with any requirements the Commission may incorporate as a condition of facility closure plan approval.

Verification: The project owner shall file 125 copies (or a mutually agreed upon lesser number) of the proposed facility closure plan with the Commission. At least six months (or other mutually agreed-upon time) prior to commencing facility closure, the project owner shall participate in a workshop, if the CPM determines that a workshop is necessary, to allow the Sutter County Planning Department and other interested agencies and parties to comment on the proposed closure plan and determine if there are any changes or additional measures needed in the plan.

B. COMPLIANCE MONITORING PLAN AND GENERAL COMPLIANCE CONDITIONS

The project's Compliance Monitoring Plan and General Conditions (Compliance Plan) has been established as required by Public Resources Code section 25532. The plan provides a means for assuring that the facility is constructed and operated in conformity with air and water quality, public health and safety, environmental and other applicable regulations, guidelines, and conditions adopted or established by the California Energy Commission (Commission) and specified in the written decision on the Application for Certification or otherwise required by law.

The Compliance Plan is composed of two elements:

(1) General Conditions that:

- Set forth the duties and responsibilities of the Compliance Project Manager (CPM), the project owner, delegate agencies, and others;
- Set forth the requirements for handling confidential records and maintaining the compliance record;