

## DOCKETED

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*Comment Received From: Randall Fung*

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## **Public Response from Fung for BRP**

Dear Ms. Matthews,  
we spoke on the phone yesterday, and I mentioned that I was submitting a paper regarding Bottle Rock Power's petition of amend, Docket 12-CAI-04.

I tried tonight to register, but the submit button does not work for my browser. So I could not e-file.

Is it possible for you to file this for me.  
I am not sure what format to file in, but I saved it as a PDF file, which is pretty universal.

Attached is the document.  
Please call in the afternoon if you have any questions. I have an early appointment and hope to be home in the afternoon.

Respectfully,  
Randall Fung

*Additional submitted attachment is included below.*

November 14, 2013

From:

Randall and Linda Fung  
8195 High Valley Rd.  
Cobb, CA 95426  
707-928-1983

To:

California Energy Commission  
attn: Ms. Camille Remy-Obad  
Compliance Project Manager  
1516 Ninth St.  
Sacramento, CA 95814

Re: Bottle Rock Power Application for Certification of DWR Bottlerock Geothermal Project  
Docket # 12-CAI-04

To whom it may concern

The CEC has given the public an opportunity to give their private responses to the current ongoing hearings considering the application of BRP for a petition to amend. I appreciate that and would like to take a few moments to share my personal opinions on the matter.

My wife and I have lived at 8195 High Valley Rd about a mile from the Bottle Rock Power plant. We have lived on our property since 1991. DWR was still in charge of the plant closure just as we moved in. We experienced the 15 years of lay over until 2001 when the new corporation know as Bottle Rock Power Corporation headed by Ron Suisse purchased the facility from the Department of Water. I met many time with the new owners from 2001 to 2006 when URGG purchased the facility from the Securities Exchange.

When the new owners of Bottle Rock Power started working on the facility in late 2005 and up to 2007, we did experience the hardships of living next to an industrial facility. We were ignorant in the rules and regulation concerning such a facility and in a nut shell, experience hell for those two years of heavy industrialization almost 24 hours a day.

In 2007 we saw that Bottle Rock Power was dumping sump spoils on the virgin meadow, and that is when we got involve in asking the proper agencies to oversee the regulations. So when we read the pre-hearing comments issued by V.V&J Coleman family trust, we were appalled at the portrayal of the

neighbors as trouble makers:

(From docket # TN 201160, pg. 7)

"It appears that much, if not all, of the desire for financial assurances stems from complaints made by the plant's neighbors.....

These comments appear to portray Bottle Rock as an irresponsible operator, thus undeserving of trust when it comes to its future obligations concerning plant closure....."

These are certainly irresponsible statements by Mr. Mark Peterson. He knows little of the facts other than from the operator and has a vest interest in promoting BRP since his client get monetary benefits from BRP.

Mr. Peterson had little understand or participation in any of the proceedings with Lake County concerning BRP's non-compliance or public hearings.

The facts are that it was because of the neighbors hard efforts that Bottle Rock Power is presently mostly in compliance with its regulations. BRP has yet to fill all the sumps as required by Central Valley Water Quality Board, an issue fought hard by the efforts of the neighbors. BRP has filed for its second extension to fill the sumps by 2014 because it needs the excavation material from the expansion project for the fill.

The facts are in the records to show that the neighbors and friends of Cobb Mountain were largely responsible through legal avenues and close work with regulatory agencies to help BRP move back into strict compliance.

Through long County meetings and hearings we were successful in requiring BRP to be required to have a guard at the gate during all phases of construction, worth noting because this will be referred to later in the paper.

My wife and I are very concerned about the protection of the environment and believe in REAL renewable energy sources and the necessity to move away from fossil fuel consumption. In a few years we will be past the tipping point of no return, and believe that clean coal, oil, and natural gas is not the way forward. Yes, the government has deemed that geothermal is considered green energy. In a recent letter from Representative Mike Thompson, we were appalled by his statements. Apparently he has looked little into the actual facts or numbers. He states the Bottle Rock Power is a poster child of Obama's dream of private investment to bring forward clean energy.

Here are some figures that we have gleaned over the years involved with Bottle Rock.

One of Bottle Rock's own well drilling manager stated that during the height of BRP's drilling from 2005 to 2008, they were using 4000 gallons of fossil fuel for one rig a week. The rigs were constantly in use for over a year and half 24 hours a day. So that works out to  $(4000 \times 52 = 208,000)$  gallons of

diesel fuel for one rig) 208,000 gallons a year. A low estimate is that they used one rig for a year and half they would have used 312,000 gallons during that time. One gallon of diesel fuel = 22.2 lbs. of CO2 so figure 6,926,400 lbs. of CO2 emissions during a year and half of drilling for one rig. Of course this is an extremely low estimate because it does not include the fossil fuel used by the heavy equipment. It only is used to show that there is an extreme fossil fuel footprint and when there is no renewable energy created by it for a sustainable period, it cannot be called green.

From the time that Bottle Rock Power restarted the plant, they invested hundreds of millions of dollars (Thompson's numbers, not mine) and drilled over 19 wells or more, but to what end?

When Bottle Rock actually opened in November of 2007, they were selling 10 MW of power. So after 7 years of development, what are they selling today? According to the recent Power Purchase agreement referred to by Mr. Harms, PG&E states that last year BRP sold 6.4 MW a month.

Bottle Rock Power states their reliability to produce green energy over a long period of time and their track record as one of the reasons that conditions have changed and that they should not be required to hold the bond.

Well, the above figures speak for themselves. Hundreds of millions of dollars invested, many, many wells drilled over 7 years, and BRP is producing LESS steam today than when it opened. In our personal opinion, that is a horrible track record.

Yes, my wife and I believe in green energy and renewable resources, but only when it produces results. Otherwise it is only a boondoggle project.

So we take issue with Representative Thompson's statements.

Mr. Harms states that he has no debt. Yes, he does have the debt of a huge carbon footprint that resulted in no extra green energy. You can't just erase all that fossil fuel use away and say you are green.

In order to boost Bottle Rock Power's image of reliability, Mr. Harms points to the recently approved Power Purchase agreement approved by the PUC in 2013.

But if one reads between the lines, they will see another image. Every time that Bottle Rock Power has amended their purchase agreement, it has been because BRP was unable to fulfill their contract obligations in producing the required power.

History of BRP's amendments to their PGE purchase agreements

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The 2007 PPA changed the guaranteed project online date from July 31, 2007 to October 1, 2007 and REDUCED the initial minimum capacity from 14.45 MW to 10 MW. In addition, the 2007 PPA set a

milestone of Dec 31, 2008 for the project to reach 16.15 Mw.

In 2008, Bottle Rock approached PG&E to amend the 2007 PPA stating that, due to large cost increases and geothermal well losses, the 2007 PPA terms did not allow for future geothermal well development. The parties negotiated amended terms and conditions and executed an Amended and Restated PPA in 2010 (210 PPA)

The 2010 PPA modified the 2007 PPA as follows:

1. increased the contract price for delivers above the required minimum delivers.
2. increased the project development security and delivery term security;
3. lowered the minimum contract capacity
4. increased the delivery term from 10 to 15 years.

The 2010 PPA is only partially effective due to a condition precedent in the 2010 PPA that has not yet been satisfied or waived. as such, Bottle Rock's current generation is subject mainly the terms and conditions of the 2007 PPA.

After the CPUC approved the 2010 PPA, Bottle Rock was unable to raise the capital necessary to expand the steam field and increase generations as required in the 2010 PPA. As a result, Bottle Rock did not reach the production level necessary to receive higher payments under the 2010 PPA. Since the 2010 PPA was executed, Bottle Rock has delivered an average of 6.4 GWh of RPS-eligible energy to PG&E per month (or 77 GWh per year).

Bottle Rock approached PG&E in June 2011 to discuss alternate contract terms that would improve Bottle Rock's chances of OBTAINING FINANCES for steam field expansion and that would support the facility's CONTINUED OPERATION. Bottle Rock indicated that without a price amendment, IT WOULD SHUT THE PLANT DOWN. (capitalized by me for emphasis)

(The above source is from

[http://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC\\_4048-E.pdf](http://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_4048-E.pdf)

titled: Advice Letter 4048-E per Resolution E-4521 dated Feb 13, 2013

In a nut shell, every time that BRP had amended their purchase agreement, it has been because they have not been able to live up to their promise of delivery. They were expected to begin with 14.4 but had to ask to begin with 10 MW promising to deliver 16 MW by the following year.

By 2008 they found they could not reach the agreed capacity.

They could not live up to their requirements of the 2010 PPA, so had to fall back under the 2007 PPA.

So in 2013 they went back to PGE and again had to amend the power purchase agreement because they were unable to start the expansion and cried that if this amendment was not passed, they WOULD HAVE TO SHUT DOWN THEIR DOORS AND WALK AWAY.

Does this sound familiar. Every time that BRP comes up against a wall, they cry that they will have to shut down and walk away! Isn't this even more reason we should examine the catastrophic senario?

So the new PPA that Bottle Rock Power is boosting about is not really a vote of confidence at all, is it? Bottle Rock has has such a poor history of living up to it's promise of delivery and uses the claim that it will have to shut its door as some sort of threat to get their way.

It is not a good record or reliability when every few years you have to amend your contracts because you have been unable to live up to them. I'd say that's poor credit.

Bottle Rock in their response claims that they are producing at 98% availability, what ever that means. I guess that means potential?

But the above PPA states that PG&E is purchasing only 6.4 MWh from Bottle Rock Power.

Bottle Rock power is permitted to produce 55 MW. So if they are only selling 6.4 MW, I guess the true statement is that...

Bottle Rock Power is only selling 11.4 percent of their potential permitted steam output.

In order to boost Bottle Rock claim of reliability, Brian Harms states that BRP has been had the plant running longer than DWR.

DWR closed its doors running at an output of around 12 MW.

DWR reached a high of around 40 MW at one point.

So one can make the statement that....

Bottle Rock Power is producing less energy today that when DWR closed its doors.

Bottle Rock Power has NEVER been able to match the highest energy output of DWR.

See, it all depends on whether you see the glass as really empty or part full!

Of course, this is my own personal opinion, but the facts are out there for people to find, if you look between the lines.

In following the proceedings fairly closely, I would like to respond with my difference of opinion of the

Staff's acceptance of Bottle Rock Power's estimate the most recently acceptable bond amount of 2,600,0000.

I am not a lawyer, but I see some flaws to point out.

Bottle Rock Power's submitted estimate seems to be based upon the idea that Bottle Rock Power could contract with Plant Reclamation and the estimate would hold as the amount for the contract. This might be true, if Bottle Rock Power decided to close its doors and contacted out the closure as estimated.

But surely, the entire premise of the requirement of the bond is not based upon that premise. It was based upon the premise that since the new owner did not have any assets, and could fail entirely, then the bond would have to be sufficient to cover the entire cost of cleanup....without the existence of Bottle Rock Power as an entity. Otherwise, why have a bond.

If Bottle Rock Power were to close their doors on their own, the bond does not come into play. BRP would use it's own resources for closure. Since the estimate is based on this premise it cannot be correct.

The bond only comes into use if BRP were to have to shut its doors unexpectedly. So the bond must be examined within that catastrophic scenario, not one with Bottle Rock still in existence.

So far in following the proceedings, I don't believe that anyone had addressed the issue as such. The stated estimate does not include any costs for an external agency that will over see the operations. Obviously some entity other than Bottle Rock would then be responsible for the clean up. These unknown costs have not been addressed.

I believe that the CEC and committee must take the time to examine the bond under the context of a catastrophic closing. And with that in mind, I have many questions to ask if that were to happen:

#### CEC HEARING QUESTIONS

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In the event that BRP was forced to close without deconstructions, who has jurisdiction over the left over property and required deconstructions?

Does that entity have right of way through High Valley Rd seeing that BRP would no longer exists.

If alternative road rights (for example, Cold Water Creek Road) have to be purchased, or Road right fought in court, does the bond that the CEC recommends cover this cost?



I believe the current recommended estimate ASSUMES that the deconstruction will take place through High Valley Rd. You've all seen how narrow that is.

Would the deconstruction require a permit through the County of Lake? with hearings.

The Lake County user permit requires a guard at gate from Bottle Rock Rd to High Valley for all phases of construction. Of course that should include deconstructions, so is the cost of a guard at the gate included in the estimate?

Where is the protocol and procedures if BRP were to suddenly fail and no longer exist?

Would an EIR be required for this deconstruction?

The proposed amendment states that there is an agreement with the VV&J Coleman Family trust to take over the closure of the building. What are the terms exactly, and if that is unknown, then how can the CEC just accept that without disclosure. Have these particular environmental impacts with leaving the building standing ever been studied? If so where and when was this examined.

So can the CEC approve this agreement without considering CEQA?

Who will pay for the maintenance of the building?

Shouldn't V&J Coleman Family Trust be required to hold a bond for this as well?

As co-dischargers, would V.V & J Coleman Family Trust then solely be responsible for the decommissioning if BRP were to walk away?

By having the V.V & J Coleman Family Trust take over the possession of the building, isn't that essentially a reduced decommissioning?

Where are the studies of the environmental impacts of this new arrangement?

Are V.V & J Coleman Family trust named as co-dischargers under the current jurisdiction of the CEC and can the CEC require them to also hold a decommission or maintenance bond?

In closing, I implore the California Energy Commission to ponder the above statements and re-evaluate whether all these questions have been considered in acceptance of the proposed bond.

The bond must be secured for the protection of the environment and neighborhood.

Bottle Rock Power has no assets and is a limited liability corporation with an extremely poor performance record. V.V & J Coleman Family Trust has limited experience in the Power industry and is a limited liability corporation with little assets.

The bond should be of a value to reflect actual closing costs with adequate oversight following the LORS of California and Lake County.

I apologize for my poor writing ability. I came down with a malady today and can only see through one eye as I type this long thesis.

Respectfully,

Randall and Linda Fung