

DOCKETED

Docket Number:	02-AFC-02C
Project Title:	Black Rock 1, 2, and 3 Geothermal Power Project
TN #:	203314
Document Title:	Staff Analyses of Petition to Extend the Start of Construction
Description:	N/A
Filer:	Tiffani Winter
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/5/2014 3:47:20 PM
Docketed Date:	11/5/2014

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



DATE: November 5, 2014

TO: Interested Parties

FROM: Dale Rundquist, Compliance Project Manager

**SUBJECT: Black Rock 1, 2, and 3 Geothermal Power Project (02-AFC-2C)
Staff Analyses of Petition to Extend the Start of Construction**

On June 11, 2014, CE Obsidian L.L.C. (CE Obsidian) filed a petition with the California Energy Commission (Energy Commission) requesting to extend the deadline to commence construction for the Black Rock 1, 2, and 3 Geothermal Power Project. Staff prepared an analysis of the extension request that can be reviewed on the Energy Commission website for this facility (see below).

The 159-megawatt facility was certified by the Energy Commission in its revised Decision on November 14, 2011, and is expected to begin construction as soon as a power purchase agreement is approved by the California Public Utilities Commission (CPUC). The facility will be located near the Salton Sea, in Imperial County, California.

The deadline to commence construction, set by regulation, is otherwise five years from the effective date of the Energy Commission's final decision on the application for certification. An applicant, before the deadline, may request and the Commission may order, an extension for good cause (Cal. Code Regs., tit.20, §1720.3). The purpose of the Energy Commission review process is to determine whether the project owner has shown good cause justifying the extension of the deadline to commence construction. Energy Commission staff (staff) also reviewed the petition and assessed the impacts of this proposal on environmental quality and on public health and safety. Based on this review of the existing environmental setting, the previous environmental analysis, and the project as currently proposed, staff concludes that there are no substantial changes to the project or to the circumstances under which the project is being undertaken, and no new information that was not previously known, justifying a supplemental or subsequent EIR-equivalent analysis.

Therefore, staff has no objections to extending the deadline. Nevertheless, certain issues will need to be addressed prior to the start of construction in the areas of Air Quality, Biological Resources and Cultural Resources. Staff recommends a condition of certification to ensure that these issues are addressed at least **180 days** prior to the start of construction. With this condition staff recommends approval of the extension. Depending upon when construction is actually expected to begin, conditions of certification may need to be updated or added to address future changed circumstances and any changes in applicable laws, ordinances, regulations or standards (LORS).

The proposed condition of certification will ensure that staff has the information necessary prior to start of construction to conclude the extent to which such changed circumstances or LORS are addressed. Energy Commission staff intends to recommend approval of the petition at the December 10, 2014 Business Meeting of the Energy Commission.

The Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/saltonsea/>, has a link to the petition and the Staff Analysis on the right side of the webpage in the box labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option. After the Final Decision, the Energy Commission's Order regarding this petition will also be available from the same webpage.

This notice has been mailed to the Energy Commission's list of interested parties and property owners adjacent to the facility site. It has also been e-mailed to the facility listserv. The listserv is an automated Energy Commission e-mail system by which information about this facility is e-mailed to parties who have subscribed. To subscribe, go to the Commission's webpage for this facility, cited above, scroll down the right side of the project webpage to the box labeled "Subscribe," and provide the requested contact information.

Any person may comment on the Staff Analysis. Those who wish to comment on the analysis are asked to submit their comments within 30 days of the date of this notice. To use the Energy Commission's electronic commenting feature, go to the Energy Commission's webpage for this facility, cited above, click on the "Submit e-Comment" link, and follow the instructions in the on-line form. Be sure to include the facility name in your comments. Once submitted, the Energy Commission Dockets Unit reviews and approves your comments, and you will receive an e-mail with a link to them.

Written comments may also be mailed or hand-delivered to:

California Energy Commission
Dockets Unit, MS-4
Docket No. 02-AFC-2C
1516 Ninth Street
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the facility Docket Log and become publically accessible on the Energy Commission's webpage for the facility.

If you have questions about this notice, please contact Dale Rundquist, Compliance Project Manager, at (916) 651-2072, or by fax to (916) 654-3882, or via e-mail to dale.rundquist@energy.ca.gov.

For information on participating in the Energy Commission's review of the petition, please call the Public Adviser at (800) 822-6228 (toll-free in California) or send your e-mail to publicadviser@energy.ca.gov. News media inquiries should be directed to the Energy Commission Media Office at (916) 654-4989, or by e-mail to mediaoffice@energy.ca.gov.

Mail List 7156
Black Rock listserv

**BLACK ROCK 1, 2 AND 3 GEOTHERMAL POWER PROJECT
(02-AFC-2C)
Petition to Extend the Start of Construction for Five Years
Executive Summary
Dale Rundquist**

INTRODUCTION

On June 11, 2014, CE Obsidian L.L.C. (CE Obsidian) filed a petition with the California Energy Commission (Energy Commission) requesting to extend the deadline to commence construction for the Black Rock 1, 2, and 3 Geothermal Power Project from December 18, 2014, to December 18, 2019. The primary challenges involved that have delayed project progress have been the resolution of electrical transmission issues with the Imperial Irrigation District (IID), and obtaining a power purchase agreement (PPA).

Energy Commission staff (staff) reviewed the petition to determine whether good cause exists to justify the extension, and staff assessed the impacts of this proposal on environmental quality and on public health and safety. Staff has completed its review of all materials received. The Staff Analysis below is staff's assessment of the project owner's proposal to extend the deadline to commence construction from December 18, 2014, to December 18, 2019.

PROJECT LOCATION AND DESCRIPTION

Black Rock 1, 2, and 3 Geothermal Power Project is a 159-megawatt (MW), Geothermal generating facility, located near the Salton Sea, in Imperial County, California. The project was certified by the Energy Commission in its revised Decision on November 14, 2011, and is expected to begin construction as soon as a power purchase agreement is approved by the California Public Utilities Commission (CPUC).

DESCRIPTION OF THE PETITION

The petition proposes to extend the deadline to commence construction from December 18, 2014, to December 18, 2019.

NECESSITY FOR THE PETITION

CE Obsidian is in the process of resolving electrical transmission issues with IID, and of obtaining a PPA.

STAFF'S ASSESSMENT OF THE PETITION

The deadline to commence construction, set by regulation, is otherwise five years from the effective date of the Energy Commission's final decision on the application for certification. The project owner, before the deadline, may request, and the Commission

may order, an extension for good cause (Cal. Code Regs., tit.20, §1720.3). The purpose of the Energy Commission review process is to determine whether the project owner has shown good cause justifying the extension of the deadline to commence construction.

The primary barriers to the development of the project have been transmission limitations between the IID and the California Independent System Operator (CAISO) which have limited the ability of the project to compete for a PPA with California utilities. The CAISO, as part of its 2014/2015 transmission plan, is currently studying various ways to increase transmission availability between its control area and the Imperial Valley. If the CAISO and IID are able to increase transmission availability, the Black Rock 1, 2, and 3 Geothermal Project would be more likely to receive a PPA.

The technical area sections contained in this Staff Analysis include staff's recommendations. Staff's conclusions in each technical area are summarized in **Executive Summary Table 1**, below.

Energy Commission technical staff reviewed the petition for potential environmental effects and consistency with applicable LORS. Based on this review of the existing environmental setting, the previous environmental analysis, and the project as currently proposed, staff concludes that there are no substantial changes to the project or to the circumstances under which the project is being undertaken, and no new information that was not previously known, justifying a supplemental or subsequent EIR-equivalent analysis. Therefore, staff has determined that the technical or environmental areas of Facility Design, Geological Resources, Hazardous Materials Management, Worker Safety and Fire Protection, Land Use, Noise and Vibration, Paleontological Resources, Public Health, Socioeconomics, Soil and Water Resources, Traffic and Transportation, Transmission Line Safety and Nuisance, Transmission System Engineering, Visual Resources, and Waste Management are not affected by the proposed petition, and no revisions or new conditions of certification are needed to ensure the project remains in compliance with all applicable LORS for these areas.

Staff determined, however, that the environmental areas of Air Quality, Biological Resources and Cultural Resources would be marginally affected by the proposed extension of the construction start deadline and has proposed the possibility that some conditions of certification may need to be modified or added at least 180 days prior to construction to address potential future changes in circumstances and changes in applicable LORS, and to reduce potential environmental impacts to a less than significant level.

Air Quality Staff Analysis is attached.

Biological Resources staff found that if new species are listed as special-status by a state or federal agency or additional information on the range and distribution of currently listed species becomes available prior to initiation of construction activities, the project owner would need to conduct the required studies and surveys according to the

most current guidelines and the new data would need to be reflected in new and/or modified conditions of certification. In addition, prior to commencement of construction, additional analysis would be required to address changed circumstances since the publication of the Staff Assessment in 2010 including, but not limited to, the following:

1. Condition of Certification **BIO-8** (Streambed Alteration Agreement) addressed the requirements of a Lake and Streambed Alteration Agreement (LSAA) pursuant to Sections 1600-1608 of the California Fish and Game Code. The project owner would need to submit any changed or updated information that would otherwise need to be contained in an LSAA application for any future proposed changes to the project description that would impact waters of the state under the jurisdiction of California Department of Fish and Wildlife (CDFW). Additional impacts and any new or changed best management practices would need to be reflected in modified or new conditions of certification.
2. The project owner would need to provide updates, if any, to the mitigation measures included in the Flat-tailed Horned Lizard Rangewide Management Strategy (current version dated 2003) prepared by the Flat-tailed Horned Lizard Interagency Coordinating Committee to revise Condition of Certification **BIO-13** (Construction Mitigation Management to Avoid Harassment or Harm), which references the 1997 version of this document.
3. Since publication of the Staff Assessment in 2010, CDFW has revised its Staff Report on Burrowing Owl Mitigation (CDFW 2012), originally published in 1995, to include revised survey guidelines and mitigation methods, including artificial burrows placement, installation and maintenance of artificial burrows, in addition to discouraging temporary or permanent exclusion and closure of burrows as an avoidance and minimization measure especially during the breeding season. The results of more recent surveys and the new mitigation and compensation standards would need to be reflected in modified or new condition(s) of certification, including Conditions of Certification **BIO-13**, **BIO-14** (Pre-Construction Monitoring To Avoid Harassment Or Harm), and **BIO-25**.

Cultural Resources staff recommends that the project owner be required to take the following actions and provide updated information prior to the start of construction:

1. Conduct an updated literature search, in accordance with section (g)(2)(B) of Appendix B of the Siting Regulations, to ascertain whether new cultural resources have been found in the project area of analysis subsequent to the last literature search and the field surveys of 2009 and 2010, and whether there have been changes in the status of the historical significance of other known cultural resources.
2. Request an updated Sacred Lands File search and a Native American contact list from the Native American Heritage Commission, and notify the Native

Americans on the NAHC list about the project, in accordance with section (g)(2)(D) of Appendix B of the Siting Regulations.

**Executive Summary Table 1
Summary of Impacts for Each Technical Area**

TECHNICAL AREAS REVIEWED	STAFF RESPONSE		
	Technical Area Not Affected	No Significant Environmental Impact*	Revised Conditions of Certification Recommended
Air Quality		X	
Biological Resources		X	
Cultural Resources		X	
Facility Design		X	
Geological Resources	X		
Hazardous Materials Mgmt.	X		
Land Use	X		
Noise & Vibration		X	
Paleontological Resources	X		
Public Health		X	
Socioeconomics	X		
Soil & Water Resources	X		
Traffic & Transportation		X	
Transmission Line Safety & Nuisance		X	
Transmission System Engineering		X	
Visual Resources		X	
Waste Management	X		
Worker Safety & Fire Protection	X		

*There is no possibility that the proposed modifications may have a significant effect on the environment, and the modifications will not result in a change in or deletion of a condition adopted by the Commission in the Final Decision, or make changes that would cause project noncompliance with any applicable laws, ordinances, regulations, or standards (20 Cal. Code Regs., § 1769 (a)(2)).

STAFF RECOMMENDATIONS AND CONCLUSIONS

Staff concludes that the following required findings, mandated by Title 20, California Code of Regulations, sections 1769 (a)(3) and 1720.3, can be made, and staff recommends approval of the petition by the Energy Commission:

- The proposed extension would not change the findings in the Energy Commission's Decision pursuant to Title 20, California Code of Regulations, section 1755;
- There would be no new or additional unmitigated, significant environmental impacts associated with the proposed extension;
- The facility would remain in compliance with all applicable laws, ordinances, regulations, and standards;
- The extension proposed in the petition would allow the project owner additional time to resolve electrical transmission issues and to obtain a PPA;
- The proposed extension would be beneficial to the public, because the extra time will enable the project to be built, providing reliable, renewable geothermal energy for the future; and
- The proposed extension is justified because information that was not available to the parties prior to Energy Commission certification is now available, in that the project owner has not been successful in obtaining a subsequent PPA¹ to build the project.

CONDITION OF CERTIFICATION

Staff reviewed the project, the setting and the impacts analyzed in the previous analysis, as described above. In order to assure that when the project proceeds to construction, the project matches the project setting and analysis, staff proposes the following condition of certification.

EXTENSION-1 No later than 180 days prior to start of construction, but no more than 250 days prior to the start of construction, the project owner shall provide to the CPM the following:

1. Confirmation that the project description has not changed or, if the project owner intends to modify the project, a description of all changes being proposed, including an evaluation of how the changes comply with LORS and whether any of the changes would result in a significant, adverse environmental impact;

¹ The original Salton Sea project had a PPA with IID in 2004 for 80% of the project capacity that has since expired.

2. A review of the existing environmental setting, including all applicable LORS, and a discussion of any changes that have occurred since project certification;
3. Any changed or updated information that would otherwise need to be contained in an application for a Lake and Streambed Alteration Agreement for any future proposed changes to the project description that would impact waters of the state under the jurisdiction of California Department of Fish and Wildlife (CDFW). Also identify any additional impacts and any new or changed best management practices.
4. Updates, if any, to the mitigation measures included in the Flat-tailed Horned Lizard Rangewide Management Strategy (current version dated 2003) prepared by the Flat-tailed Horned Lizard Interagency Coordinating Committee to revise Condition of Certification **BIO-13** (Construction Mitigation Management to Avoid Harassment or Harm), which references the 1997 version of this document.
5. The results of recent Burrowing Owl surveys using revised survey guidelines and changes to conditions of certification based on CDFW's Staff Report on Burrowing Owl Mitigation (CDFW 2012), including proposed changes to Conditions of Certification **BIO-13**, **BIO-14** (Pre-Construction Monitoring To Avoid Harassment Or Harm), and **BIO-25**. These changes shall reflect the revised guidelines including artificial burrows placement, installation and maintenance of artificial burrows, in addition to discouraging temporary or permanent exclusion and closure of burrows as an avoidance and minimization measure especially during the breeding season.
6. The results of an updated literature search, in accordance with section (g)(2)(B) of Appendix B of the Siting Regulations, to ascertain whether new cultural resources have been found in the project area of analysis subsequent to the last literature search and the field surveys of 2009 and 2010, and whether there have been other changes in the status of the historical significance of other known cultural resources.
7. The results of an updated Sacred Lands File search and a Native American contact list from the Native American Heritage Commission, and notification of Native Americans on the NAHC list about the project, in accordance with section (g)(2)(D) of Appendix B of the Siting Regulations.

Verification: The project owner shall submit the above to the CPM for review and approval no later than 180 days prior to start of construction, but no more than 250 days prior to the start of construction.

BLACK ROCK 1, 2, 3 (02-AFC-2C)
Request to Extend Start of Construction for 5 Years
Joseph Hughes

INTRODUCTION

The original certification granted by the California Energy Commission in December 2003 was for Salton Sea Unit 6, a 185 megawatt (MW) geothermal facility. The original 2003 license was amended in May 2005 to enable the plant to increase its capacity to 215 MW. The project owner petitioned, and the California Energy Commission subsequently granted, an extension to the Salton Sea Unit 6 license, making it effective until December 18, 2011. On February 2, 2011 the Energy Commission approved an order allowing construction and operation of Salton Sea Unit 6 to become Black Rock 1, 2, 3 Geothermal Power Plant (BR123) (CEC 2011). BR123 would consist of three smaller geothermal plants totaling 159 MW net of generating capacity. On November 14, 2011 the Energy Commission approved the latest order extending the deadline to commence construction from December 18, 2011 to December 18, 2014. The applicant is now requesting to extend the deadline to commence construction from December 18, 2014 to December 18, 2019.

LAWS, ORDINANCES, REGULATIONS, AND STANDARDS (LORS)

The proposed license extension is subject to all laws, ordinances, regulations, and standards (LORS) described in the Energy Commission's Final Staff Assessment (FSA) for the Black Rock 1, 2, and 3 Geothermal Power Project (CEC 2010) and in the Imperial County Air Pollution Control District's (ICAPCD) Final Determination of Compliance (FDOC) (ICAPCD 2010). There have been no revisions to any LORS since the Energy Commission Order Approving a Petition to Revise the Salton Sea Unit 6 Geothermal Power Plant to Become the Black Rock 1, 2, and 3 Geothermal Power Plant (CEC 2011) that would affect BR123's ability to comply with such LORS.

On August 19, 2010 the ICAPCD issued a FDOC for BR123 that would remain valid as long as the Energy Commission Decision remains valid. The ICAPCD would issue a Permit to Operate (PTO) once the facility became operational and demonstrated compliance with all permitted conditions of certification (COC).

The state and federal ambient air quality standards (AAQS) remain the same as they were when analyzed in the FSA (CEC 2010), with the exception of the federal annual PM2.5 standard. On December 14, 2012, the federal annual PM2.5 primary standard was lowered from 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 12 $\mu\text{g}/\text{m}^3$. However, at that time the state annual PM2.5 standard was already 12 $\mu\text{g}/\text{m}^3$ and the project's impacts were analyzed relative to this standard in the FSA.

SETTING

The project site is located a few miles west of Calipatria and north of Westmorland in Imperial County. The project site is located within the Salton Sea Air Basin (SSAB) under the jurisdiction of ICAPCD. The attainment statuses for pollutants in the SSAB remain the same as when the project was analyzed in the FSA (CEC 2010). The SSAB in the area of the project site is designated as nonattainment for the federal and state ozone and PM10 standards. This area is designated as attainment for the federal and state PM2.5, CO, NO₂, and SO₂ standards. This area is also designated as unclassified for the state hydrogen sulfide (H₂S) standard.

Since publication of the FSA, four years of additional criteria pollutant ambient concentrations data (2010-2013) have become available. Overall, there have been air quality improvements, with the exception of some high PM10 and PM2.5 24-hour concentrations which were flagged as exceptional events by the Environmental Protection Agency (EPA).

ASSESSMENT OF IMPACTS

The applicant is requesting to extend the deadline to commence construction by five years. The previously approved project equipment, technologies, operating profile, and emission limits would remain the same. Staff combined the project's modeled impacts for construction, commissioning, and routine operation, as presented in the FSA (CEC 2010), with the most recent criteria pollutant ambient concentration data (maximum values from 2010 to 2013) and determined that the project would not cause violations of any AAQS beyond what was previously analyzed and approved when using the more recent background concentrations.

CONCLUSIONS AND RECOMMENDATIONS

Staff recommends approval of the petition to extend the commencement of construction deadline by five years, from December 18, 2014 to December 18, 2019. Staff reviewed the existing environmental setting, and the previous air quality environmental analysis for the proposed project and has concluded that there are no substantial changes to the project nor to the circumstances under which the project is being undertaken, and no new information that was not previously known, justifying a supplemental or subsequent EIR-equivalent analysis.

REFERENCES

- ARB 2014 – California Air Resources Board. Air Quality Data Statistics.
<http://www.arb.ca.gov/adam/welcome.html>, accessed October 2014.
- CEC 2010 – Energy Commission’s Staff Assessment for the Black Rock 1, 2, and 3 Geothermal Power Project – Major Amendment. December 3, 2010.
- CEC 2011 – Energy Commission Order Approving a Petition to Revise the Salton Sea Unit 6 Geothermal Power Plant to Become the Black Rock 1, 2, and 3 Geothermal Power Plant, Order No. 11-0202-5. February 2, 2011.
- EPA 2014 – United States Environmental Protection Agency. Monitor Values Report.
http://www.epa.gov/airdata/ad_rep_mon.html, accessed October 2014.
- ICAPCD 2010 – Imperial County Air Pollution Control District’s Final Determination of Compliance for the Black Rock Facility: Units 1, 2, and 3. August 19, 2010.