

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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NOTICE OF DETERMINATION PETITION TO MODIFY THE MARIPOSA ENERGY PROJECT (09-AFC-3C)

On March 11, 2015, Mariposa Energy, LLC filed a petition with the California Energy Commission requesting to modify the Mariposa Energy Project (MEP). MEP is a 200-megawatt (MW) simple-cycle generating facility consisting of four General Electric Energy LM6000 PC-SPRINT natural gas-fired combustion turbine generators and associated equipment. The project was certified by the Energy Commission on May 18, 2011, and began commercial operation on October 1, 2012. The project is located in northeastern Alameda County, California.

DESCRIPTION OF PROPOSED MODIFICATIONS

The modifications proposed in the petition would allow MEP to install supplemental, temporary water supply tanks for use during a possible water curtailment. Mariposa Energy is proposing to install one of two options for short-term water storage. Option 1 is the installation of a temporary, approximately 1.70 million-gallon ("MG") tank and a smaller, approximately 0.68 MG tank; for 2.38 MG total capacity. Option 2 is the installation of one, approximately 1.03 MG tank and one, approximately 0.68 MG tank; with 1.71 MG total capacity. The two tank configurations would allow MEP to operate approximately 7 months (Option 1) or 5 months (Option 2) during a possible water curtailment.

The tanks would be located at the site of the former Byron Power Cogeneration Plant that is located on approximately 2 acres immediately north of the MEP site. Layflat water lines will be laid on top of the ground from the temporary tanks to the MEP raw water storage tanks for use in transporting water to and from the plant site.

The backup temporary water supply tanks are necessary to ensure an adequate water supply to MEP if water delivery is curtailed. Construction is scheduled for summer of 2015, and will take about a month. Each tank's components would be delivered by semi-trucks and assembled onsite. The site will be leveled and sand pads may be installed beneath the tanks. Once concern about a potential water curtailment is passed, the tanks will be disassembled and removed. After the tanks are removed, the site would remain unchanged should the need for tanks arise in the future requiring their reconstruction. The temporary tanks would be installed and filled as needed based on the potential risk of water curtailment to the project.

The proposed modifications will not increase the amount of water used by the MEP to levels above that analyzed in the Final Decision.

The Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/mariposa/>, has a link to the amendment petition on the

right side of the webpage in the box labeled “Compliance Proceeding.” Click on the “Documents for this Proceeding (Docket Log)” option.

ENERGY COMMISSION STAFF REVIEW AND DETERMINATION

Staff’s conclusions for each technical or environmental area are summarized in the following table.

Summary of Staff Responses to Petition

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

*There is no possibility that the proposed modifications would have a significant effect on the environment, and the modifications would 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)).

Energy Commission technical staff reviewed the petition for potential environmental effects and consistency with applicable laws, ordinances, regulations, and standards (LORS). Staff has determined that the technical or environmental areas of Efficiency, Reliability, Transmission Line Safety & Nuisance and Transmission System Engineering are not affected by the proposed changes, and no revisions or new Conditions of Certification are needed to ensure the project remains in compliance with all applicable LORS and existing Conditions of Certification for these areas.

For the technical areas of Air Quality, Biological Resources, Cultural Resources, Facility Design, Geological Resources, Hazardous Materials Management, Land Use, Noise and Vibration, Paleontological Resources, Public Health, Socioeconomics, Soils and Water Resources, Traffic and Transportation, Visual Resources, Waste Management and Worker Safety and Fire Protection, staff has determined the project would continue to comply with applicable LORS and no changes to any conditions of certification are necessary. Staff notes the following for these technical areas:

- **Air Quality.** After analyzing the proposed modifications, staff believes the construction of temporary storage of water would not result in any additional environmental impacts in terms of air quality in comparison with the original analysis for the approved project. Provided the project owner complies with existing Air Quality Conditions of Certification, the proposed activities would not result in a change or deletion of a condition adopted by the commission or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards.
- **Cultural Resources.** After analyzing the proposed modifications, staff believes the construction of temporary storage of water would not result in any additional environmental impacts in terms of Cultural Resources. The literature review and survey, presented in the petition, reconfirm that the project area has a low potential for cultural resources, therefore, the existing Conditions of Certification are sufficient.
- **Facility Design.** The installation of the water tanks must comply with the California Building Code (CBC) and related engineering LORS. This is assured by the implementation of the existing Facility Design Conditions of Certification adopted in the Energy Commission Decision.
- **Geological/Paleontological Resources.** Staff has reviewed the proposed modifications to determine if the proposed changes would result in any environmental impacts to Geological/Paleontological Resources or be subject to geologic hazards that were not originally analyzed by the Energy Commission when it approved the project on May 18, 2011. Based on staff's review, the proposed modifications will have no environmental impacts on Geological/Paleontological Resources. This determination is based on the fact that the proposed changes to MEP would not require any subsurface construction or disturbance to in-place native soils.
- **Hazardous Materials Management.** With the implementation of existing Conditions of Certification, **HAZ-1** (a list of hazardous materials contained at the facility), the proposed modifications would not have a significant effect on the environment and would continue

to comply with all applicable LORS. No extremely hazardous or regulated hazardous materials will be used on site for installation or continued operation of the two temporary water storage tanks.

- **Land Use.** The proposed modifications would be consistent with the Large Parcel Agriculture designation in the Alameda County General Plan because this designation does not preclude a power plant facility and the necessary infrastructure required to operate the facility. Staff also reviewed the Alameda County Agriculture zone district and determined that the proposed water storage tanks and water lines would be considered an accessory use to the existing power plant and would not require a conditional use permit, if the county were the permitting agency. The proposed modifications would be located within the previously disturbed area of the Byron cogen site and would not require removal or loss of grazing land, and therefore the amendment would be consistent with the existing Williamson Act Contract. The existing Land Use Conditions of Certification are not applicable to the amendment.
- **Noise and Vibration.** Construction work associated with the installation of the temporary water tanks would occur during the daytime hours and would be temporary. Any noise generated during these activities would result in a less-than-significant impact with implementation of the existing Noise Conditions of Certification. Operational noise impacts would not be affected by the new water tanks.
- **Public Health.** The proposed modifications would have no public health impacts. The potential construction impacts from diesel particulate matter have been addressed in the Air Quality section. Potential operation impacts from the proposed modifications would be insignificant.
- **Socioeconomics.** The proposed modifications would have no socioeconomic impacts. The construction activities would require approximately 27 workers for about one week. This small workforce would not induce substantial population growth or adversely impact acceptable levels of service for emergency medical services, police protection, schools, parks, and other public facilities. No new assessable area for school impact fees is proposed; therefore SOCIO-1 would not apply.
- **Soils and Water Resources.** Installation and use of the backup water supply would have no significant impact to soil and water resources and would be in compliance with all applicable LORS with the implementation of existing Conditions of Certification **SOIL&WATER-1** (SWPPP) and **SOIL&WATER-2** (DESCP). The proposed modifications would not require any change to the May 2011 Commission Decision Conditions of Certification related to soil and water resources.
- **Traffic and Transportation.** While the proposed modifications would lead to an increase in traffic during construction and dismantling/removal, this increase in traffic would be minor and short in duration, with deliveries being spread throughout the day and not occurring simultaneously, thus reducing the chance of large delivery vehicles causing traffic congestion. During operation of the proposed modifications, there would be no increase in traffic. Also, the modifications would not result in additional road

disturbance, crossings, or access roads. Modifications would not cause significant traffic or transportation hazards or adversely affect any mode of transportation. Impacts to the traffic and transportation system are expected to remain less than significant with implementation of the Conditions of Certification set forth in the May 2011 Commission Decision.

- **Visual Resources.** The tanks would be 12 feet in height and the diameters of the large tanks would be 125 feet or 160 feet, depending on the option selected. The tanks would be colored dark green. With the implementation of existing Visual Resources Conditions of Certification, the proposed modifications would not cause significant visual impacts, and the project would continue to comply with all applicable LORS.
- **Waste Management.** Based on staff's review, the proposed modifications would have no environmental impacts related to Waste Management. All construction related waste materials will be removed from the site as required by the existing operations waste management plan.
- **Worker Safety and Fire Protection.** With the implementation of existing Conditions of Certification, the proposed installation of the temporary water supply tanks would not have a significant effect on the environment and would continue to comply with all applicable LORS. The short construction duration for the installation of the water tanks shall comply with worker safety and fire safety measures contained in the existing health and safety plans (**WORKER SAFETY-1**) utilized for construction of the main facility.
- **Biological Resources.** See Attachment A for the Biological Analysis.

Section 1769(a)(2) of Title 20, California Code of Regulations, states, "(w)here staff determines that there is no possibility that the modifications may have a significant effect on the environment, and if the modifications will not result in a change or deletion of a condition adopted by the commission in the final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no commission approval is required...."

Pursuant to that section, Energy Commission staff has determined for this petition that approval by the full Commission is not required and the proposed modifications meet the criteria for approval at the staff level because:

- The modification[s] will not have any significant effect on the environment;
- Existing conditions of certification are sufficient to cover the proposed modification[s] without changes to, or deletions of, any conditions of certification; and
- The project as modified will maintain full compliance with applicable LORS.

This Notice of Determination has been mailed to the Commission's facility mail 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's webpage to the box labeled "Subscribe," and provide the requested contact information.

Any person may file an objection to staff's determination within 14 days of the date of this Notice on the grounds that the project modification does not meet the criteria set forth in section 1769(a)(2). Absent any relevant objections, the amendment petition will be approved 14 days after this Notice is docketed.

To submit comments, use the Energy Commission's electronic commenting feature to object to staff's determination, 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. 09-AFC-3C
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 be publicly accessible on the Energy Commission's webpage for the facility.

If you have questions about this Notice, please contact Joseph Douglas, Compliance Project Manager, at (916) 653-4677, or by fax to (916) 654-3882, or via e-mail at joseph.douglas@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.

Date: 6/5/2015

Original Signed by _____
CHRISTINE STORA, Compliance Manager
Siting, Transmission, & Environmental Protection Division

**ATTACHMENT A:
MARIPOSA ENERGY PROJECT (09-AFC-3)
NOTICE OF DETERMINATION
BIOLOGICAL RESOURCES STAFF ANALYSIS**

INTRODUCTION

This biological resources analysis covers the two proposed options for short-term water storage for use during a possible water shortage as described in the Notice of Determination.

ANALYSIS

LAWS, ORDINANCES, REGULATIONS AND STANDARDS

Staff has not identified any changes to laws, ordinances, regulations and standards (LORS) affecting biological resources since the Mariposa Energy Project (MEP) was licensed in 2011. Therefore, staff concludes that all the LORS identified for the licensed project in the Commission Final Decision published on May 23, 2011 (CEC 2011) remain applicable.

Assessment of Project Impacts

The area within the former Byron Power Cogeneration Plant (Cogen) site, where the proposed water supply tanks would be located, is a disturbed habitat characterized by gravelly surfaces. No construction is planned to occur outside the previously disturbed area and the existing dirt roads would be used to access the site.

A small retention earthen basin/retention pond is located at the north eastern corner of the proposed site (see Figure A-1 in the MEP Amendment). The earthen basin/retention pond currently shows significant water ponding (See attached March 26, 2015 CEC staff site visit photo). Installation of the proposed tanks would require the filling of the earthen basin/retention pond. Based on the coordination of the project owner with United States Army Corps of Engineers (USACE), it was determined that the pond would be considered Other Waters of the United States under the jurisdiction of the USACE. However, the project owner will be required to conduct a formal jurisdictional delineation using the USACE Wetlands Delineation Manual (USACE, 1987). This process would require the USACE to review the wetland delineation in order to obtain Water Quality Certification permit under Section 401 from the Central Valley Regional Water Quality Control Board (RWQCB) and Nationwide 404 Permit of the Clean Water Act from the USACE and to establish the Endangered Species Act Section 7 consultation with the United States Fish and Wildlife Service (USFWS) for potential impacts to federally listed species.

To assess the potential presence of special-status species at the Cogen site and surrounding areas, the project owner conducted a pedestrian survey of the proposed project site and within a 250-foot buffer around the Cogen site on November 13, 2014. Additionally, the project owner inspected the Cogen area for the presence of potential vernal pools and features of hydrological connectivity of the site with the surrounding areas and concluded it is hydrologically isolated from the offsite habitat.

During the November site visit, no special-status species were observed within the survey area. However, the surveyors observed numerous small mammal burrows within the surrounding annual grassland, which supports habitats for several sensitive species including California red-legged frog, California tiger salamander, and San Joaquin kit fox. Several listed species are known to occur in the surrounding area or migrate through area. In addition, the retention basin could be habitat for red-legged frogs and California tiger salamanders as well as listed fairy shrimp. The California red-legged frogs and California tiger salamanders migrating through the surrounding area may use the ground squirrel burrows as refugia and estivation habitat; respectively. Although no suitable refugia and estivation habitat currently exists on the proposed site, it may in the future become habitat for California red-legged frogs and California tiger salamanders, especially the burrows that might be created by the ground squirrels, which are routinely observed in areas surrounding the proposed project site. The proposed construction activities would occur on developed and disturbed areas; however the vernal pools historically known to occur in the surrounding areas, and observed at the offsite locations during the recent survey, would provide habitat for special-status invertebrates including the longhorn fairy shrimp (federally-listed as endangered) and vernal pool fairy shrimp (state-listed as threatened).

Impacts Avoidance, Minimization, and Mitigation Measures

The proposed construction activities would occur primarily on developed and disturbed areas with direct impact to a USACE jurisdictional Other Waters of the U.S. Potential indirect impacts to listed brachiopods include potential sedimentation, erosion, or contaminates from construction materials or equipment. All potential impacts would be mitigated by the implementation of the avoidance, minimization, and mitigation measures listed below. The project owner would be required to provide compensation land for the permanent loss of Other Waters of the United States at 1:1 ratio per the Condition of Certification **BIO-16**. Potential indirect impacts to brachiopods would be offset by preservation of 0.0658 acre of vernal pool habitats in perpetuity as close to the project site at 3:1 ratio per the Condition of Certification **BIO-16**.

For the modification, MEP proposes to implement several Biological Resources Conditions of Certification from the Final Decision (MEP 2015). To avoid, minimize, and mitigate for all potential current and future impacts of the proposed modification, the project owner shall implement all the Biological Resources Conditions of Certification identified in the in the Final Decision (CEC 2011) for the licensed MEP, i.e. **BIO-1** through **BIO-18**. A designated biologist and/or biological monitor(s) (**BIO-1** and **BIO-3**) would provide the worker environmental awareness program (**BIO-5**), and conduct preconstruction surveys (**BIO-8**). Implementation of Conditions of Certification **BIO-7** through **BIO-15** would avoid, minimize, and mitigate all potential impacts to the special-status species. **BIO-7**(General Avoidance and Minimization Measures) sub-section 7

items **a** through **c** require the project owner to conduct surveys for the special-status species prior to ground disturbing activities. The project owner has proposed a minimum of 25-foot buffer from the vernal pools located to the north of the proposed tank locations. **BIO-9**, item number **a** sub-section **1** states that if such a buffer is not feasible, a buffer zone shall be delineated in consultation with the wildlife agencies. If the temporary tank site becomes refugia and/or estivation habitat and if the wetland on the cogen site is considered habitat for listed species, **BIO-16** (Compensatory Mitigation for Impacts to Special-Status Wildlife Species and Wetlands) would mitigate any potential impacts to wetlands and Other Waters of the U.S., California red-legged frogs and California tiger salamander and their habitat. The project owner would be required to mitigate for potential impacts based on the outcome of the Section 7 consultation between U.S. Army Corps of Engineers (USACE) and U.S. Fish and Wildlife Service (USFWS). As required by the Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) (**BIO-6**), the project owner shall update the BRMIMP with any new terms or measures of permit(s) issued for the licensed project (i.e., Biological Opinion, permits conditions of Section 401 and Section 404 Clean Water Act Permits). With the implementation of Biological Resources Conditions of Certification **BIO-1** through **BIO-18**, there would be no significant impacts associated with the proposed work involving assembling and disassembling of short term storage tanks.

CONCLUSION

The proposed modification would not result in any deletion of or addition to any of the existing Biological Resources Conditions of Certification in the Commission Final Decision for the licensed project (CEC 2011). Based on the review of the proposed petition, staff concludes that impacts to wetlands and Other Waters of U.S. would be less than significant with implementation of Conditions of Certification **BIO-1** through **BIO-18**. These Conditions of Certification would be required for any and all work associated with the current and future temporary tank assembly and disassembly.

With the implementation of the above Conditions of Certification, and the conditions of the permits issued by RWQCB and USACE and measures outlined in the USFWS Biological Opinion through Section 7 consultation, MEP would remain in compliance with all applicable laws, ordinances, regulations, and standards related to biological resources.

REFERENCES

CEC 2011. California Energy Commission. Mariposa Energy Project (09-AFC-3). Commission Final Decision, May 2011.

MEP 2015. Mariposa Energy, LLC. (TN 203835). Petition for Staff Approved Insignificant Modification for Back-Up Water Supply Tanks, Mariposa Energy Center (09-AFC-3C). March 03, 2015.

U.S. Fish and Wildlife Service. 2011. Biological Opinion for the Mariposa Energy Project (MEP), Alameda County, California. 66 pages.

U.S. Army Corps of Engineers (USACE). 1987. Wetlands Delineation Manual, Technical Report Y-8. U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi. 100 pp.

**CALIFORNIA ENERGY COMMISSION STAFF SITE VISIT
ON MARCH 26, 2015
PHOTOGRAPH OF THE EARTHEN BASIN/RETENTION BASIN**

