

DOCKETED

Docket Number:	00-AFC-14C
Project Title:	El Segundo Power Redevelopment Project Compliance
TN #:	206403
Document Title:	Energy Commission Staff's Pre-hearing Conference Statement
Description:	N/A
Filer:	Liza Lopez
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/19/2015 4:46:42 PM
Docketed Date:	10/19/2015

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

Docket No. 00-AFC-14C

Petition to Amend The
EL SEGUNDO ENERGY CENTER PROJECT

ENERGY COMMISSION STAFF'S PRE-HEARING CONFERENCE STATEMENT

On September 23, 2015, the Committee assigned to this proceeding issued a Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order, and Further Orders (Notice). In that document, the Committee requested that parties file opening and rebuttal testimony. Staff filed their opening testimony on October 12, 2015 (TN 206332) and rebuttal testimony on October 16, 2015 (TN 206389). The Committee also requested all parties file Prehearing Conference Statements and Exhibit Lists no later than October 19, 2015. Energy Commission staff hereby files the following in response to the information requested in the Notice.

Staff completed its analysis in all subject areas and is ready to proceed to the evidentiary hearing set for November 17, 2015. Staff concluded that, with the conditions of certification and related impact mitigation proposed in the Final Staff Assessment Combined Parts A and B (combined FSA), in addition to new mitigation and revised mitigation proposed in staff's rebuttal testimony, no significant adverse impact to the environment or public health will result from the demolition, construction or operation of the El Segundo Energy Center and that the proposed project will comply with all applicable laws, ordinances, regulations and standards (LORS).

Staff reviewed opening testimony filed by the El Segundo Energy Center, LLC (Applicant) on October 12, 2015. (TN 206334). At the time of this filing, no testimony or rebuttal has been filed by Intervenors. Based on a review of the documents received thus far, staff believes that there remains disagreement in several technical areas: Air Quality, Biological Resources, Cultural Resources, Hazardous Materials, and Compliance Conditions. Applicant raised new issues with Air Quality in its opening testimony and recommended revisions to Condition of Certification AQ-33. Also with regard to Air Quality and Compliance Conditions, applicant proposed a new Condition of Certification CONTINGENCY-3 in its opening testimony to address air quality and clutch technology. Staff’s rebuttal testimony responded to all of the issues raised by applicant in its opening testimony.

1. The subject areas that are complete and ready to proceed to hearing.

For those matters not subject to dispute by the applicant or the intervenors, staff proposes to enter testimony into the record by declaration. The sections and testimony and the respective authors and witnesses are identified below, and declarations have been included in the combined FSA, and staff’s opening testimony.

Executive Summary	Camille Remy-Obad, J.D.
Introduction.....	Camille Remy-Obad, J.D.
Project Description.....	Camille Remy-Obad, J.D.
Land Use	Michael C. Baron
Noise and Vibration	Shahab Khoshmashrab, P.E.
Public Health.....	Obed Odoemelam, Ph.D.
Socioeconomics	Lisa Worrall
Soil and Water Resources	Mike Conway, P.G.
Traffic and Transportation	Jonathan Fong
Transmission Line Safety and Nuisance.....	Obed Odoemelam, Ph.D.
Visual Resources.....	William Kanemoto
Waste Management.....	Ellie Townsend-Hough
Worker Safety and Fire Protection	Alvin Greenberg, Ph.D.
Facility Design	Shahab Khoshmashrab, P.E. and Edward Brady, P.E.

Geology and Paleontology Casey Weaver, CEG and Paul D. Marshall
 Power Plant Efficiency Edward Brady, P.E.
 Power Plant Reliability Edward Brady, P.E.
 Transmission System Engineering..... Sudath Edirisuriya and Mark Hesters
 Alternatives Steven Kerr

2. The subject areas upon which any party proposes to introduce testimony in writing rather than through oral testimony.

For those matters not subject to dispute by the applicant or the intervenors, staff proposes to enter written testimony into the record by declaration.

3. The subject areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefore.

All subject areas are ready to proceed to evidentiary hearing.

4. The subject areas that remain disputed and require adjudication, and the precise nature of the disputes for each issue.

a. Air Quality

(1) Staff and applicant are in agreement regarding the conclusions in the Air Quality section of the combined FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS). However, applicant proposed revisions in its Opening Testimony filed on October 12, 2015 to the verification requirements of AQ-33 for compliance demonstration of the 2.0 ppmv volatile organic compound (VOC) emission limit for Units 5 and 7. Staff agrees with the applicant’s proposed change to use source testing for VOC compliance, but disagrees with the applicant’s conditions of certification referenced in their opening testimony for testing requirements. Accordingly, staff proposes the following changes to AQ-33:

AQ-33 The 2.0 ppmv VOC emission limit is averaged over 60 minutes at 15 percent θ_2O_2 , dry basis.

Verification: The project owner shall submit ~~CEMS records~~ **source test results (see AQ-7)** demonstrating compliance with this condition as part of the Quarterly Operational Report required in **AQ-SC8**.

- (2) Staff provided rebuttal testimony to applicant's Air Quality issues raised in their opening testimony with regard to the installation of clutch technology. Applicant proposed a new Condition of Certification CONTINGENCY-3, which would be a Compliance Condition. However, clutches were not proposed in this petition, and were therefore not reviewed. As staff's rebuttal testimony explained, applicant's proposed condition CONTINGENCY-3 is premised on applicant's Air Quality assumptions, seems to limit a decision by the Energy Commission on clutch technology and its viability, and was not a true contingency condition as proposed by applicant in its opening testimony. While staff believes that they understand what the applicant's intended in their opening testimony, staff does not agree with CONTINGENCY-3 as proposed by applicant. Staff recommended edits in its rebuttal testimony that would make CONTINGENCY-3 a true contingency condition of certification, but would consider changes if proposed by the applicant in an effort to arrive at a mutually agreeable condition to address clutch technology for the El Segundo Energy Center.

- (3) Air Quality staff is prepared to provide testimony and explanation of the inconsistencies in the combined FSA between the Project Description and Air Quality sections regarding the construction schedule. The Project Description sets forth a construction schedule based on a double-shift (16 hours per day) through the site preparation period and the construction of the major equipment foundations and pedestals. The Air Quality section shows that construction activities would be scheduled for 8 hours per day and 5 days per week. Staff verified that the 8-hour per day construction schedule is correct, which is also consistent with applicant's response to staff's Data Request #18 (TN 200464). Staff believes that applicant will agree that the schedule would remain as modeled in the Air Quality section (8 hours per day, 5 days per week).

b. Biological Resources

Staff and applicant are in agreement regarding the conclusions in the Biological Resources section of the combined FSA that the project will comply with all applicable LORS. Staff and applicant are not in agreement regarding proposed Conditions of Certification BIO-7 and BIO-8, with the nature of the dispute concerning the duties of the Designated Biologist and delegation of duties to the Biological Monitor(s).

c. Cultural Resources

Staff and applicant are in agreement regarding the conclusions in the Cultural Resources section of the combined FSA that the project will comply with all applicable LORS. Staff and applicant are not in agreement regarding proposed Condition of Certification CUL-6, with applicant asserting that monitoring should be required only once a cultural discovery is made. Staff concludes in the combined FSA that the several discoveries of historic artifacts during previous phases of construction warrants focused monitoring by one or more qualified archaeologists.

As originally proposed by staff in the combined FSA, CUL-6 directs attention to those construction areas that have a potential to encounter archaeological resources, and contains reporting requirements that scale the level of monitoring effort to the duration of construction in these specific areas and the finds (or lack thereof) made during construction.

d. Hazardous Materials

Staff and applicant are in agreement regarding the conclusions in the Hazardous Materials section of the combined FSA that the project will comply with all applicable LORS and will not result in significant adverse impacts to the environment. However, applicant proposed in its opening testimony that that the verification requirement of HAZ-5 be revised so that the timeframe for a security plan that covers all phases of

activity be linked to the start of construction at the site. Staff is amenable to modifying the verification requirement of HAZ-5 and the following changes proposed by applicant:

Verification: ~~No later than~~ At least sixty (60) days **prior to the start of construction** ~~after the Petition to Amend is approved,~~ the project owner shall notify the CPM that a site-specific Security Plan is available for review and approval. In the annual compliance report, the project owner shall include a statement that all current project employee and appropriate contractor background investigations have been performed, and that updated certification statements have been appended to the operations security plan. In the annual compliance report, the project owner shall include a statement that the operations security plan includes all current hazardous materials transport vendor certifications for security plans and employee background investigations.

e. Compliance Conditions

Staff and applicant are in agreement regarding the conclusions in the Compliance Conditions section of the combined FSA that the project will comply with all applicable LORS and will not result in significant adverse impacts to the environment.

(1) CONTINGENCY CONDITIONS OF CERTIFICATION:

(A) Applicant proposed in its opening testimony a new Condition of Certification CONTINGENCY-3, to address a contingency for clutches. Staff responded in rebuttal by recommending the following revisions to applicant's proposed CONTINGENCY-3:

CONTINGENCY-3: The project owner shall include design clearances for the potential installation of the clutch technology on the project's Trent 60 units.

The project owner shall install the clutch components that facilitate dispatch as synchronous condensers in the design and construction of the Trent 60 units if all of the following criteria are met ~~prior to the start of construction:~~

(1) It is physically and technically feasible to install clutch technology on the Trent 60 units ~~without modifying the environmental impacts characteristics of the project;~~

(2) clutches are available as warranted components of the Trent Power Trains; and

(3) a contract that allows Project Owner to recoup the costs of installing clutches and obtain compensation for providing reactive power has been entered into and approved by the California Public Utilities Commission (CPUC).

~~Condition (3)~~ **Criterion (3)** above can be waived by the Project Owner, should Project Owner decide to install clutches in anticipation of such equipment being valued by CAISO or an offtaker.

Verification: At least one hundred and twenty (120) days prior to start of **project** construction, **the** project owner shall submit to the CPM a Clutch Feasibility Report (CFR) that reports of ~~Project Owner's decision of whether to include clutches in the final design of Trent Units~~ **that accommodates the potential installation of the clutch technology**. The CFR shall address all three criteria and explain whether or not each criterion is **currently** met. The CPM shall approve the report unless the CPM finds the conclusions in the CFR unsupported by substantial evidence.

At least one hundred and twenty (120) days prior to start of installation of the clutch technology, the project owner shall submit to the CPM a CFR that reports project owner's decision to install the clutch technology on the project's Trent 60 units. The CFR shall address all three criteria and explain how each criterion is met. The CPM shall approve the report unless the CPM finds the conclusions in the CFR unsupported by substantial evidence.

The CPM shall approve the CFR(s) or return ~~it~~ **them** with comments within thirty (30) days of receipt.

If returned by the CPM with comments, project owner shall respond within thirty (30) days with a revised CFR for approval by the CPM.

(B) Applicant proposed in its opening testimony revisions to staff's proposed CONTINGENCY-1, and staff agreed with applicant that additional time may be needed. Accordingly, staff proposed in its rebuttal testimony to revise the condition's timeframe to 60 days. Staff does not agree with any of applicant's other proposed revisions to Condition of Certification CONTINGENCY-1.

(C) Applicant proposed in its opening testimony revisions to staff's proposed CONTINGENCY-2. Staff objects to applicant's testimony and rejects their

testimony regarding the demolition of Units 3 and 4, as well as applicant's proposed revisions to this condition. However, in order to address applicant's concerns expressed in their testimony concerning CONTINGENCY-2, staff proposed a new condition of certification in its rebuttal testimony.

- (D) CONTINGENCY-4 was proposed by staff in its rebuttal testimony in acknowledgement of applicant's opening testimony recommending that the Energy Commission require a Delayed Construction Management Plan (DCMP) after Units 3 and 4 are retired at the end of 2015 to ensure that the site is properly managed until demolition starts. Staff's proposed CONTINGENCY-4 was included in rebuttal testimony as follows:

CONTINGENCY-4 The project owner shall submit a Delayed Construction Management Plan (DCMP) to maintain the property in a stable manner that is compliant with all applicable laws. The DCMP, at a minimum, shall:

- **Identify procedures for maintaining Units 3 and 4, including associated structures, retention basins, exhaust stacks and once-through cooling facilities in a stable and idle condition;**
- **Identify the process for handling industrial water and storm water in conformance with the facility's National Pollutant Discharge Elimination System (NPDES) permits at the site; and**
- **Require reporting relevant information as to the condition of the Units 3 and 4 facilities in each ESPFM Periodic Compliance Report (PCR) until such time as the CPM issues a Demolition, Removal, and Remediation Plan (DRRP) Notice to Proceed.**

Verification: No later than 60 days after the Commission decision to approve the PTA, (or other CPM-approved mutually agreeable date), the project owner shall submit a draft DCMP to the CPM for review and approval and to the city of El Segundo and other interested agencies, for review and comment. DCMP comments are due to the CPM within 60 days after DCMP submittal, (or other CPM-approved date). No later than 60 days following receipt of agency comments, the project owner shall submit a Final DCMP to the CPM for review and approval.

(2) COMPLIANCE CONDITIONS OF CERTIFICATION

(A) Applicant proposed testimony to revise Conditions of Certification COM-10 and COM-11. Staff's rebuttal testimony identified its agreement with applicant's testimony, and accepted revisions recommended by applicant for these two conditions of certification.

(B) As to Conditions of Certification COM-12 and COM-13, staff objected to applicant's proposed revisions to this condition. However, for COM-12 staff's rebuttal testimony agreed with applicant's testimony identifying an inconsistency in the time schedule required in COM-12 and Worker Safety-1. Staff proposed that COM-12 be revised to be consistent with Worker Safety-1 and proposed the following revision:

COM-12: Emergency Response Site Contingency Plan. No less than ~~sixty (60)~~ **thirty (30)** days prior to ~~the start of construction commercial operation to~~ **commencement of demolition activities or site mobilization for construction, whichever occurs first,** (or other CPM-approved date), the project owner shall submit for CPM review and approval, an Emergency Response Site Contingency Plan (Contingency Plan). Subsequently, no less than ~~sixty (60)~~ **thirty (30)** days prior to the start of commercial operation, the project owner shall update (as necessary) and resubmit the Contingency Plan for CPM review and approval.

(All other text of COM-12 remains as proposed in the combined FSA.)

(C) Staff's objection to applicant's testimony and proposed revisions to COM-13 is detailed in its rebuttal testimony and based upon staff's conclusion that the condition as proposed in the combined FSA is reasonable and necessary, and does not present an undue burden on the applicant to report incidences at the power plant.

5. The identity of each witness that the staff intends to sponsor at the Evidentiary Hearing, the subject area(s) about which the witness(es) will testify, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.

If the Committee determines it is necessary, the following witnesses will be available to testify at the Evidentiary Hearing. The qualifications for each witness are included in the combined FSA, staff's opening testimony, and staff's rebuttal testimony. Additional witnesses that were not included in the combined FSA are as follows: Air Quality and Compliance Conditions (clutch technology), Matthew Layton, P.E., Supervising Mechanical Engineer; Biological Resources, Anwar Ali, Supervising Biologist; Paul D. Marshall, Supervisor for the Soil, Water Resources, and Waste Management Unit, Geology and Paleontology; and for Compliance Conditions, Roger E. Johnson, Deputy Director for the Siting, Transmission, and Environmental Protection Division. Copies of the additional four declarations and resumes were attached to staff's opening and rebuttal testimony filed on October 12, 2015 and October 16, 2015 (Ex. 2002 and Ex. 2003).

Topic:

Witnesses:

Air Quality/GHG:

Wenjun Qian, Ph.D., P.E., Matthew Layton, P.E.

Biological Resources:

Anwar Ali, Ph.D.

Cultural Resources:

Gabriel Roark, M.A.

Compliance:

Roger E. Johnson, Camille Remy-Obad, J.D.,
Matthew Layton, P.E., Alvin Greenberg, Ph.D.

For Air Quality, staff requests 30 minutes to present the direct testimony of staff's expert witnesses, Wenjun Qian and Matthew Layton. Wenjun Qian's statement of qualifications is contained in the combined FSA (Ex. 2000), and her written testimony is contained in the combined FSA, as well as in staff's opening testimony. In support of this testimony, staff will offer into evidence the Final Determination of Compliance submitted by the South Coast Air Quality Management District (Exs. 2004 through 2007). As to air quality and clutch technology, Matthew Layton's testimony and statement of qualifications was in staff's rebuttal testimony (Ex. 2003).

For Biological Resources, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Anwar Ali. The written testimony is contained in the combined FSA (Ex.

2000). The statement of qualifications is contained in the staff's Opening Testimony (Ex. 2002).

For Cultural Resources, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Gabriel Roark. The written testimony and statement of qualifications is contained in the combined FSA (Ex. 2000).

For Compliance, staff requests 30 minutes to present the direct testimony of staff's expert witnesses, Roger E. Johnson, Matthew Layton, Dr. Alvin Greenberg, and Camille Remy-Obad. Camille Remy-Obad's written testimony, declaration, and statement of qualifications are in the combined FSA (Ex. 2000). Roger E. Johnson will be available to testify in support of written testimony concerning contingency conditions of certification. His declaration and statement of qualifications are contained in staff's opening testimony (Ex. 2001). Matthew Layton will be available to testify on the issue of clutch technology and proposed contingency conditions of certification. His testimony, declaration and statement of qualifications are contained in the staff's rebuttal testimony. (Ex. 2003). Dr. Alvin Greenberg will be available to testify on issues raised by applicant's testimony concerning Conditions of Certification COM-12 and COM-13. His testimony, declaration and statement of qualifications are contained in the combined FSA (Ex. 2000), in addition to staff's rebuttal testimony (Ex. 2003).

6. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness.

Staff requests 30 minutes to cross-examine applicant's witnesses on clutch technology and contingency conditions of certification. At the time of this writing, staff is unaware of any intervenor witnesses. Staff reserves the right to add cross-examination time once it has reviewed the applicant's Prehearing Conference Statement and Exhibit List.

7. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence and the technical subject areas to which they apply.

Exhibit Number	TN	Title of Document	Subject Area
2000	205874	Final Staff Assessment Combined Parts A & B	Staff's Testimony
2001	206332	Identification of Staff's Opening Testimony	Staff's Testimony
2002	205313-1	Revised Final Determination Of Compliance Letter	Air Quality
2003	206389	Energy Commission Staff's Rebuttal Testimony	Air Quality, Hazardous Materials, Compliance Conditions
2003	205313-2	Revised Final Determination Of Compliance	Air Quality
2004	205313-3	Revised Final Determination Of Compliance Appendix H	Air Quality
2005	205313-4	ESPFM Revised Draft Permit	Air Quality
2006	203551	CEC Order 15-0114-2 Approving Clarification to Turbine Startups/Restarts	Air Quality
2007	200464	Applicant's Responses to Data Requests in Set One	Air Quality

8. Proposals for briefing deadlines, impact of scheduling conflicts, or other scheduling matters.

Staff respectfully reserves the right to augment the proposed exhibit list and the time requested for direct or cross-examination depending on the testimony filed by the applicant and any other parties, their Prehearing Conference Statements, and comments made at the Prehearing Conference.

Staff recommends that the Committee allow for the filing of Errata prior to the close of the evidentiary record. Should any matter need briefing after evidentiary hearings, staff proposes

that Opening Briefs be due 10 days after the transcripts and Reply Briefs 7 days after the Opening Briefs.

DATED: October 19, 2015

Respectfully submitted,

Original signed by
ELENA M. MILLER
Senior Staff Attorney
California Energy Commission
1516 9th Street
Sacramento, CA 95817
Ph: (916) 654-3855
email: Elena.Miller@energy.ca.gov