

DOCKETED

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CALIFORNIA ENERGY COMMISSION

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**NOTICE OF DETERMINATION
PETITION TO AMEND
MARSH LANDING GENERATING STATION
(08-AFC-3C)**

On December 2, 2016, NRG Marsh Landing, LLC, filed a Petition to Amend (PTA) with the California Energy Commission (Energy Commission) requesting modifications to the Marsh Landing Generating Station (MLGS). MLGS is a simple-cycle, natural gas-fired, 760-megawatt facility located in the city of Antioch, California. The project was certified by the Energy Commission on August 25, 2010, and began commercial operation on May 1, 2013.

DESCRIPTION OF PROPOSED MODIFICATIONS

The PTA is seeking approval to modify the MLGS to install 37,000 square feet of additional asphalt paving on the access roads within the licensed project boundaries. The installation of asphalt pavement is considered a necessary Best Management Practice for controlling the excessive sediments caused by the unpaved dirt roads that provide access to the warehouse for material deliveries. The proposed paving would require grading the area to allow for ten inches of aggregate base material and four inches of asphalt to be added. The final grade of the new paving would provide proper drainage for storm water erosion and tracking control for the existing facility. The proposed pavement installation will maintain compliance with the treatment control design standards required by the Industrial General Permit for the storm water discharges associated with the National Pollutant Discharge Elimination System.

For additional information, the Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/marshlanding/index.html>, has a link to the Petition to Amend (TN 214786) accessible through the webpage in the box labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option.

ENERGY COMMISSION STAFF REVIEW AND DETERMINATION

Pursuant to section 1769(a)(2) of Title 20, California Code of Regulations, Commission approval of a petition to amend is not required "(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 [LORS]...."

Energy Commission technical staff reviewed the petition for potential environmental effects and consistency with applicable LORS. Staff has determined for this petition that formal approval by the Energy Commission at a noticed Business Meeting is not

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required, and the proposed modifications meet the criteria for approval at the staff level because:

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

Therefore, staff is processing the request as a Staff Approved Project Modification. 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 or LORS Inconsistency*	Process As Amendment	
Air Quality		X		N/A
Biological Resources		X		N/A
Cultural Resources		X		N/A
Efficiency	X			N/A
Facility Design		X		N/A
Geological and Paleontological Resources		X		N/A
Hazardous Materials Management		X		N/A
Land Use	X			N/A
Noise and Vibration		X		N/A
Public Health	X			N/A
Reliability	X			N/A
Socioeconomics		X		N/A
Soil and Water Resources		X		N/A
Traffic and Transportation		X		N/A
Transmission Line Safety and Nuisance	X			N/A
Transmission System Engineering	X			N/A
Visual Resources		X		N/A
Waste Management		X		N/A
Worker Safety and Fire Protection		X		N/A

*No Energy Commission approval is necessary where staff determines 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 (Cal. Code Regs., tit. 20, § 1769 (a)(2)).

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Staff has determined that the technical or environmental areas of Efficiency, Land Use, Public Health, Reliability, Transmission Line Safety and Nuisance, and Transmission System Engineering are not affected by the proposed project modifications.

For the technical areas of Air Quality, Biological Resources, Cultural Resources, Facility Design, Geological and Paleontological Resources, Hazardous Materials Management, Noise and Vibration, Socioeconomics, Soil 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 to ensure that no significant impacts occur. Staff notes the following for these technical areas:

- **Air Quality.** Impacts to air quality are expected to continue to be less than significant with the implementation of the conditions of certification in the final Commission decision (Decision). Since the construction and equipment use is temporary, stationary source air permits would not be required through the local air district. Any diesel equipment used would still be required to meet the state of California diesel requirements. As applicable, the diesel equipment used would need to be registered through the Statewide Portable Equipment Registration Program (PERP) or Diesel Off-road On-line Reporting System (DOORS) and associated equipment permits would be retained onsite. The equipment is expected to comply with all applicable LORS and significant impacts to air quality are not expected from the associated short-term construction.
- **Biological Resources.** The proposed project modification would have a less than significant effect on biological resources with implementation of existing conditions of certification in the decision and the project would remain in compliance with all LORS related to biological resources. Staff recommends implementation of the following existing conditions of certification: **BIO-1** (Designated Biologist Selection), **BIO-2** (Designated Biologist Duties), **BIO-3** (Designated Biologist Authority), **BIO-4** (Worker Environmental Awareness Program (WEAP)), **BIO-5** (Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP)), and **BIO-6** (Impact Avoidance and Minimization Measures). Construction is proposed to occur outside the nesting bird season; however if construction must be scheduled during the nesting season (March 1 to August 31), staff recommends nesting bird surveys as required by Condition of Certification **BIO-7** (Pre-Construction Nest Surveys and Impact Avoidance and Minimization Measures for Breeding Birds). In addition, WEAP training would cover the importance of reporting any nesting bird activity in or near the construction area to the Designated Biologist or Biological Monitor.
- **Cultural Resources.** Impacts to cultural resources are expected to be less than significant with implementation of the conditions of certification adopted in the Decision.
- **Facility Design.** The paving of the road must comply with the California Building Code and related engineering laws, ordinances, regulations, and standards. Implementation of the existing Facility Design conditions of certification adopted in the Decision would ensure this.

- **Geological and Paleontological Resources.** Based on the information provided by the owner, staff concludes the proposed modifications would have no significant impact on geologic resources, paleontologic resources, or impacts to public health and safety due to geologic hazards. The proposed construction would not require any change to the conditions of certification related to geologic or paleontologic resources adopted by the Energy Commission in its Decision (TN 58247), and all approved subsequent amendments. Staff also concludes that compliance with current geology LORS and with conditions specified in the Decision would mitigate the effects of geologic hazards at the site.
- **Hazardous Material Management.** The new asphalt paving near the existing warehouse building would not have a significant effect on power plant hazardous materials. During the paving near the warehouse building, several hazardous materials would be used onsite. Similar to equipment maintenance activities, these materials would include solvents, gasoline, and lubricants, which are already included in the annual compliance report under the existing **HAZ-1** condition. No extremely hazardous or regulated hazardous materials would be used on site specifically for the asphalt paving. Therefore, with petitioner's continued compliance with existing conditions of certification, **HAZ-1** specifically, the proposed modification would not have a significant effect on the environment and would continue to comply with all applicable LORS.
- **Noise and Vibration.** Construction work associated with this petition would be temporary and would occur during the daytime hours. Any noise generated during these activities would result in a less-than-significant impact with implementation of the existing Noise conditions of certification in the Decision. The changes proposed in the petition would have no effect on the plant's operational noise.
- **Socioeconomics.** The proposed amendment would have a less than significant socioeconomic impact as the associated activities (pavement installation) would require a minimal workforce for three weeks and there is a large labor supply in the Oakland-Hayward-Berkeley Metropolitan Division (Alameda and Contra Costa counties), Stockton-Lodi Metropolitan Statistical Area (MSA) (San Joaquin County), and Vallejo-Fairfield MSA (Solano County).
- **Soil and Water Resources.** Based on the information provided by the project owner, the modification proposed in the petition: (1) would not require any change to the soil and water resource conditions of certification; (2) would be in compliance with soil and water resource LORS; and (3) would not result in significant impacts to environmental justice populations. Therefore, staff concludes the proposed modifications would have no significant impacts to soil and water resources provided the project owner complies with Conditions of Certification **SOIL&WATER-2, 4, and 6**.
- **Traffic and Transportation.** The project would not generate an amount of traffic trips that could adversely impact the existing traffic conditions in the project area. Traffic and transportation impacts are expected to be less than significant with continued implementation of the Conditions of Certification **TRANS-1** and **TRANS-2** as set forth in the Decision.

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- **Visual Resources.** The proposed amendment would have no significant adverse visual impacts. The proposed installation of additional paving of access roads within the MLGS would present a minor, compatible visual change to the power plant and, therefore, would not substantially degrade the existing visual quality and character of the site and its surroundings.
- **Waste Management.** The existing waste management program would be adequate in ensuring that any generated waste would be handled without any significant impacts on the environment.
- **Worker Safety and Fire Protection.** The new asphalt paving near the warehouse building would not have a significant effect on power plant worker safety. Activities to be performed during the paving activity would comply with worker safety and fire safety requirements already contained in health and safety plans utilized for construction of the main facility, per Condition of Certification **WORKER SAFETY-1**.

Environmental Justice

The Environmental Justice Population Figure (attached) shows 2010 census blocks within the six-mile radius of Marsh Landing with a minority population greater than or equal to 50 percent. The population in these census blocks represents an EJ population based on race and ethnicity as defined in the Council on Environmental Quality's *Environmental Justice: Guidance Under the National Environmental Policy Act*.

Based on California Department of Education data in the **Environmental Justice Population Table below**, staff concluded that the percentage of those living in the Antioch Unified School District and Oakley Union Elementary School District (in a six mile radius of the project site) and enrolled in the free or reduced price meal program are comparatively greater than those in the reference geography, and thus are considered an EJ population based on poverty as defined in *Environmental Justice: Guidance Under the National Environmental Policy Act*.

**Environmental Justice Population Table-
Poverty Data within the Project Area**

SCHOOL DISTRICTS IN SIX-MILE RADIUS	Enrollment Used for Meals	Free or Reduced Price Meals	
Antioch Unified School District	17,874	12,192	68.2%
Brentwood Union Elementary School District	8,738	2,282	25.5
Oakley Union Elementary School District	5,008	2,311	46.1
REFERENCE GEOGRAPHY			
Contra Costa County	176,437	70,588	40.0%
River Delta Joint Unified School District	2,386	1,274	53.4%
REFERENCE GEOGRAPHY			
Sacramento County	242,730	143,160	59.0%
Source: CDE 2016. California Department of Education, DataQuest, Free or Reduced Price Meals, District level data for the year 2015-2016, < http://dq.cde.ca.gov/dataquest/ >.			

Conclusions

Staff has concluded that the impacts of the proposed modifications would be less than significant or less than significant with implementation of the existing conditions of certification. Therefore impacts would be less than significant for any population in the project’s six-mile radius, including the EJ population represented in **Environmental Justice Population Figure and Table**.

This Notice of Determination has been mailed to the Energy Commission's facility mail list of interested parties and property owners adjacent to the facility site. It has also been emailed to the facility listserv. The listserv is an automated Energy Commission email system by which information about this facility is emailed to parties who have subscribed. To subscribe, go to the Energy 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 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.

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

California Energy Commission
Dockets Unit, MS-4
Docket No. (08-AFC-03C)
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 Keith Winstead, Project Manager, at (916) 654-5191, or by fax to (916) 654-3882, or via e-mail at keith.winstead@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 _____

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