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## CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512



## INDIGO ENERGY FACILITY STAFF ASSESSMENT FOR EMERGENCY PERMIT

### SUMMARY

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The Energy Commission staff has performed a fatal flaw analysis of the Indigo Energy Facility (Indigo) and recommends that the project be approved by the Energy Commission with Conditions of Certification proposed by staff. Staff further recommends that the certification be for the life of the project if at the end of the power purchase agreement with either the California Independent System Operator or the California Department of Water Resources the project owner can verify that the project meets certain continuation criteria. These recommendations are based on the Energy Commission staff's independent assessment of the emergency permit application, independent studies and site evaluation and consultation with agencies that would normally have permitting authority over the project except the Energy Commission's emergency permitting authority provided by Emergency Executive Orders by the Governor.

On March 8, 2001, the Wildflower Energy LP (Wildflower) filed an emergency permitting application for Indigo. Wildflower submitted supplemental application information on March 15. Wildflower's application was deemed complete on March 16, 2001. The application is available in Adobe PDF format at the documents portion of the project website, at [www.energy.ca.gov/sitingcases/peakers/indigo](http://www.energy.ca.gov/sitingcases/peakers/indigo).

The Indigo project is a proposed nominal 135 MW simple-cycle natural gas power plant consisting of three GE LM6000 gas turbine engines. The proposed Indigo Energy Facility site is located on 19<sup>th</sup> Avenue west of North Indian Avenue in the City of Palm Springs, Riverside County. Wildflower anticipates the start of commercial operation in early July 2001. The location map, site plan, and a visual simulation of the project from Wildflower's application are available for download along with this staff assessment at the project web site.

The facility will connect to the 115 kV transmission line that runs between the Garnet and Devers substations. The project will include a new 24-inch natural gas supply line that will connect to one of the existing Southern California Gas Company main 30-inch pipelines south of I-10. The project will utilize Selective Catalytic Reduction (SCR) and CO oxidation catalyst systems to control emissions of oxides of nitrogen (NOx) and carbon monoxide (CO). The project plans to obtain water from the Mission Springs Water District, which has a 12-inch water main that runs along the south side of the project site, or from a new on-site well. Peak water usage is estimated at 240 gallons per minute (gpm). The only wastewater discharge from the facility will be storm drainage, which will be routed to an oil-water separator. The project will use aqueous ammonia for the SCR system. The ammonia will be stored in three 10,000 gallons tanks with secondary containment.

Wildflower anticipates construction to require two to three months. This schedule is dependent on timely completion of the natural gas and transmission interconnections. Wildflower estimates that the peak construction workforce for this project will be approximately 200.

## **EMERGENCY PERMITTING AUTHORITY**

This project is being considered outside of the Energy Commission's normal power plant permitting process. Under Public Resources Code section 25705, if the legislature or the Governor declares a state of energy emergency, the Commission has emergency authority to order the construction and use of generating facilities under terms and conditions it specifies to protect the public interest. This authority can be invoked only if the Legislature or Governor declares a state of emergency and the Commission determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency.

Governor Gray Davis declared a state of emergency on January 17, 2001. On February 8 and March 7, 2001, the Governor issued several executive orders and declared that all reasonable conservation, allocation, and service restriction measures will not alleviate an energy supply emergency.

In Executive Orders D-26-01 and D-28-01, the Governor ordered the Energy Commission to expedite the processing of applications for peaking and renewable power plants that can be on line by September 30, 2001. The Governor also declared that these projects are emergency projects under Public Resources Code section 21080(b)(4), and are thereby exempt from the requirements of the California Environmental Quality Act (CEQA). A summary of the emergency permitting process, including the proposed schedule, and a checklist showing the information required in an application, can be found on the web at:

<http://www.energy.ca.gov/sitingcases/peakers/documents/index.html>

## **NEED FOR EMERGENCY PERMITTING**

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### **SUPPLY**

The electric generation system must have sufficient operating generating capacity to supply the peak demand for electricity by consumers (including the transmission and distribution losses associated with power delivery). Also, an additional amount of reserve power plant capacity must be operational to act as instantaneous back-up supplies should some power plants or transmission lines unexpectedly fail. According to the Western Systems Coordinating Council (WSCC), to reliably deliver power, control area operators should maintain operating reserves of seven percent of their peak demand (including losses). If operating reserves decline below that level, customers that have agreed to be interrupted in exchange for reduced rates may be disconnected. If operating reserves get as low as one and a half percent, firm load will likely be shed locally, resulting in rotating blackouts, to avoid system-wide blackouts.

Current estimates by Energy Commission staff of consumer peak demand for electricity and reserve requirements, and of the expected availability of electricity capacity supplies for the summer of 2001, indicate that existing capacity supplies are not adequate to maintain a seven percent operating reserve margin particularly if summer temperatures rise above levels that have as much as a 10 percent chance of occurring. Therefore, additional capacity resources or demand reductions are needed now and by next summer to maintain a seven percent operating reserve margin under temperature conditions that have about a 10 percent chance of occurring.

Many efforts to reduce peak demand and supply new capacity are currently under way. More than 2,500 MW of new generation may be operational by July 2001. These projects include power plants already certified by the Energy Commission that are currently under construction; various upgrades, rerates and returns-to-service of existing power facilities; and new renewable generation responding to Energy Commission incentive programs. The emergency approval of new simple-cycle power plants at numerous locations throughout the state is also important to respond to peak summer demand and provide local electricity system reliability.

Staff assumes that power plant outages of about 3,000 MW will occur throughout the summer. If power plant outages this summer turn out to be greater than assumed, new capacity resources, such as peaking power plants, can help maintain an adequate reserve margin, and help avoid or shorten the duration of rotating blackouts.

## **PUBLIC HEALTH AND SAFETY**

There is a reliability benefit associated with locating generation resources near the significant load centers. When load and generation are seriously out of balance, as they are in most service areas, the potential for system separation, islanding and cascading outages are significantly increased (U.S. Congress, Office of Technology Assessment, June 1990). If additional simple-cycle projects are not licensed and built, this reliability benefit will be foregone until additional larger baseload generation is built in such areas. Although it is impossible to accurately calculate the likelihood of system outages, such outages are certainly plausible and are much greater without new generation resources in most California service areas. Power outages frequently occur during, and are often precipitated by, periods of extreme heat. Extreme summer heat creates extreme demand primarily from air conditioning loads. In fact, it has been demonstrated that demand in California is particularly sensitive to small increases in maximum summer temperature (CEC 1999). In the summer of 1998 the system demand in California increased by 4,000 MW as a result of a five-degree increase in temperature as compared to more typical maximums.

When major outages occur, there is an increased risk of significant public health and safety impacts. Fatalities and injuries associated with many types of accidents may result from outages, such as traffic accidents from signal and lighting failures, falls down unlighted stairways, fires caused by use of candles for lighting and unconventional open-flame cooking, loss of life support equipment in medical clinics, and electrical shock from improper use of portable electric generators. However, a much more serious risk is the potential morbidity and mortality associated with summer heat waves.

Behind major epidemics, heat waves in California rank among the worst of all other natural disasters in the history of California for excess mortality. Heat waves have caused more fatalities in individual events than the 1906 earthquake (452 deaths), the San Francisquito Dam collapse of 1928 (450 deaths) and the Port Chicago explosion in 1944 (322 deaths) (Oechsli and Buechley 1970). The mortality associated with one California heat wave in 1955 resulted in 946 deaths (before air conditioning was in common use). Fortunately the mortality associated with such events is completely preventable (Semenza 1995). One of the most effective ways of avoiding mortality during heat waves is to spend time in air conditioned environments during the hottest parts of the day (CDC 2000). However, artificial climate control (air conditioning) may be mandatory to avoid fatalities when temperatures change abruptly (Bridger and Helfand 1968).

The availability of air conditioning has significantly reduced the mortality associated with heat waves in California and throughout the nation. It was estimated that increased use of air conditioning during the 1963 Los Angeles heat wave saved over 800 lives (Oechsli and Buechley 1970). Sensitive populations are often dependent on air conditioning to avoid aggravation of chronic health conditions such as chronic obstructive pulmonary disease or acute health effects such as heat stroke. It is widely recognized that hot weather conditions can significantly increase both morbidity and mortality, particularly among sensitive populations such as the very young, the elderly, and those with chronic diseases (Bridger and Helfand 1968) (Schickele 1947) (Oechsli and Buechley 1970) (Kalkstein et al 1989, 1993, 1997, 1998). Thus, shortages of electricity can impose risk of very serious impacts on the public, potentially increasing the risk of deaths due to heat waves. The vast majority of those who die in heat waves are at home without air conditioning and are elderly. Based on evaluation of the public health and safety risks associated with new projects, staff concludes that new generating projects are much more likely to reduce public health and safety risks than increase them.

## **AIR EMISSIONS OF BACK UP GENERATORS COMPARED WITH EMERGENCY PERMIT POWER PLANTS**

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California generation is among the cleanest in the country. This is due to negligible coal and oil use as generation fuel, the BARCT and Best Available Control Technology (BACT) rules, and a robust mix of geothermal, renewable, nuclear and hydroelectric generation. With the generation shortfalls California has experienced in recent months due to abnormal forced and unforced outage rates and shortages of in-state and out-of-state generation capacity, several options have been considered to supply additional generation without compromising public health and safety.

One option is to utilize the existing fleet of diesel engines that are used as backup or standby generators for facilities such as hospitals, businesses, and essential services such as telephone, water, sewer, police and fire. Most of these generators are exempt from permitting as they are designed to only run when the grid fails to deliver electricity. That fleet is older and uncontrolled. It could represent 11,500 units, producing as much as 5,000 MW. However, as little as 1,200 MW may be compatible with operating in

parallel with the grid. Most units are designed to only operate when isolated from the grid, and only with enough power for essential load at the facility.

Another option is to rely on a small number of diesel or natural gas engines that are permitted with emission control equipment as prime engines. Their emissions are in the range of 10 lb NO<sub>x</sub>/MWhr. However, they may not be tied to a generator (e.g., they may operate a pump or compressor) or are already operating at or near baseload, so they may not be able to supply much electricity to the grid. Other California generation options are less than 1.0 lb NO<sub>x</sub>/MWhr, but few are cleaner than the system NO<sub>x</sub> averages with the exception of demand reduction, solar, wind, and expensive fuel cells. The generation system emission averages will continue to decrease as the BARCT rules are fully implemented and the new generation with BACT installed comes online. The generation system emission average should approach 0.1 lb NO<sub>x</sub>/MWhr by 2005.

## **DIFFERENCES IN AIR EMISSIONS**

Emission rates, rather than the sheer number of generators of any one type, are key to comparing emissions from different generation sources. For example, if there is a need for 1000 MW over 10 hours, or 10,000 MWhrs, then the NO<sub>x</sub> emissions are simply a product of the emission rate multiplied by 10,000. Diesel standby engine use would result in 150 tons of NO<sub>x</sub> over 10 hours, versus 1.5 tons from 1000 MW of natural gas-fired generation over the same period of time. A new simple cycle power plant, such as the 5 ppm General Electric LM6000 combustion turbine equipped with emission controls proposed for the Indigo facility, would produce 0.9 tons of NO<sub>x</sub> during 10 hours of operation.

The location and configuration of a source are also significant factors in assessing the effect on air quality. If the 1000 MW is concentrated in one location (e.g., a 1000 MW combustion turbine or combined cycle project), then the emission will be of relatively low concentration, will be buoyant, and will be emitted at a relatively high elevation from a stack. If the 1000 MW consists of 1,000 one-MW diesel standby generators, the emissions will be emitted near ground level, at relatively high concentrations, and probably over a wide region or even throughout the state. Similarly, a dispersed set of peakers (e.g., twenty 50MW General Electric LM6000s) could be located throughout the state. Without knowing their exact locations, their effects on air quality are not entirely known. A peaking power plant located next to a hill or mountain, because of the terrain or topography, or in an area that is already heavily polluted could result in violations whereas the other 1000 MW "configuration" might not.

## **EMISSION REDUCTION CREDIT BANK**

The Governor's Executive Order D-24-01, charges the California Air Resources Board with the responsibility of creating a state emission reduction credit bank for the purpose of providing offsets for new or expanded peaking facilities that could add new power by this summer. This bank was initially funded with recent NO<sub>x</sub> reductions generated through the CARB's Carl Moyer Program, an incentive program. The incentives are grants that cover the incremental cost of cleaner on-road, off-road, marine, locomotive and stationary agricultural pump engines, as well as forklifts and airport ground support

equipment. Because the new or expanded peaking facilities will operate under short term entitlements, for the purpose of responding to the energy crisis, the use of these mobile emission reductions are intended to provide NOx and particulate matter offsets for these peaking facilities.

These emission reduction credits (ERCs) are available through the Board to peaking power plants that need emission offsets in order to add new or expanded peaking capacity that will be on-line by September 30, 2001. These credits are intended to fully satisfy offset requirements of these power plants. The ERCs available from this bank are nitrogen oxides (NOx) and particulate matter less than 10 microns (PM10). Where needed, these ERCs will be issued to qualified power plant applicants for a three-year period. These ERCs will expire on November 1, 2003, to ensure that these credits will be available for three full summer peak seasons. The amount of NOx ERCs needed for this project is directly related to the emission control level of 5 parts per million NOx and the number of hours of operation. The CARB bank will make up to 21 tons per year available for purchase for each 50 MW power plant up to 100 MW total. Prior to the expiration of the CARB short term ERCs, applicants who use these credits will be required to secure permanent emission reductions for the remaining life of the power plant peaking units if the applicant desires to continue to operate the unit.

Heavy-duty engines are a significant source of smog-forming pollutants. About 525,000 heavy-duty diesel trucks are driven throughout the state, with another 680,000 diesel-fueled engines used in construction and agriculture. Together, diesel engines contribute about 40 percent of all NOx emissions from mobile sources. NOx is one of the main contributors to ground-level ozone, one of the most health-damaging components of smog. In addition, the fine particulate matter exhaust from heavy-duty diesel engines is a toxic air contaminant. The Carl Moyer incentive program focuses on reducing emissions of smog-forming NOx, but will also reduce particulate emissions.

Particulate matter includes many carbon particles (also called soot) as well as other gases that become visible as they cool. In 1998, California identified diesel particulate matter (diesel PM) as a toxic air contaminant based on its potential to cause cancer and other adverse health effects. In addition to PM, emissions from diesel-fueled engines include over 40 other cancer causing substances. Overall, emissions from diesel engines are responsible for the majority of the potential airborne cancer risk in California. Several studies have confirmed that the cancer risk from diesel particulates is greater than the risk from all other identified toxic air contaminants combined. Given these findings, using the proposed emission reduction credit strategy will be an effective means to offset peaking power plant emissions as an interim measure.

## **STAFF ASSESSMENT**

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The following sections briefly describe staff's fatal flaw analysis of the Indigo project. Conditions of certification for the project are included at the end of this report.

## **ENGINEERING**

The project, including its linear facilities, such as water and natural gas pipelines, will be designed and constructed in compliance with the California Building Code (CBC) and all other applicable engineering LORS (see Condition of Certification GEN-1 below). This will be assured by the Commission's delegate Chief Building Official (CBO), whose duties are prescribed under the CBC. These duties include the review of project designs by qualified engineers and the inspection of project construction by qualified inspectors. The CBO's performance, in turn, will be ensured through monitoring by the Energy Commission's Compliance Project Manager.

In Resolution 20014, the City of Palm Springs has recommended several requirements be incorporated in the Commission Decision. Under the heading, "Building Department," the City recommends:

- The project's structural design take into account that the Southern San Andreas Fault lies near enough to the project site to qualify as a "near-source" fault.
- The facility should be categorized in Occupancy Category 3, which defines the stringency of structural design that must be applied.
- The project should require "structural observation" under Section 1702 of the CBC.
- The project should be designed per the requirements of CBC seismic zone 4.
- The exhaust stack must be properly designed to withstand winds in the exposure category C wind regime.

Energy Commission staff takes note of these comments, and concludes that the requirement to design and construct the project in accordance with the 1998 CBC (see Condition of Certification GEN-1) adequately addresses these concerns. No additional Conditions of Certification are required.

## **AIR QUALITY**

The analysis of the air quality impacts of this emergency permit application was performed by the South Coast Air Quality Management District (SCAQMD). On March 28, 2001, the SCAQMD issued a notice of intent to issue an Authority to Construct for this facility. This notice initiates a 30-day public comment period. SCAQMD intends to issue the Authority to Construct for this facility after the close of that comment period. A copy of the notice is included in Appendix A of this report. Staff has incorporated the Authority to Construct by reference (see Appendix B) and proposed conditions of certification that require the project owner to limit fugitive dust emissions during construction and to comply with the Authority to Construct issued by the South Coast Air Quality Management District.

## **NOISE**

Existing noise in the vicinity of the project area includes Interstate 10 traffic approximately 0.5 miles to the south of the project site, noise generated by adjacent



windmills to the northeast, and intermittent noise from an existing railroad located approximately 0.5 miles to the south of the project site.

Noise impact information supplied by the applicant indicates that project noise levels at the adjacent receptors, with standard enclosures already installed on the turbine generators and ancillary equipment, will range between 40 to 43 dBA at the residences along Indian Avenue to 65 dBA at the commercial uses south of 19<sup>th</sup> Avenue. These levels comply at the residential property line with the 45 dBA nighttime limits set forth in the City of Palm Springs Noise Ordinance, Section 11.74.031. However, these levels exceed the allowable evening (6-10pm, 60 dBA) and overnight (10pm-7am, 55 dBA) noise standards for commercial uses south of 19<sup>th</sup> Avenue.

Although an 8-foot block wall shown on the project's landscape plan would likely reduce project noise levels south of 19<sup>th</sup> Avenue, the applicant has included this wall as a component of visual mitigation and has not addressed the wall in the context of noise mitigation. To that end, staff proposes Conditions of Certification Noise-1 to require project-related noise impacts be reduced to meet the ordinance limits.

The City of Palm Springs has included a list of recommendations to the CEC as part of Resolution 20014. The following recommendation addresses noise:

- Pursuant to Section 11.74 of the Municipal Code, the proposed project shall operate in accordance with City noise standards.

Energy Commission staff takes note of this recommendation, and concludes that the implementation of Condition of Certification **NOISE-1** adequately addresses the city's noise concerns. No additional conditions of certification are required.

## **BIOLOGY**

Wildflower Energy LP proposes the Indigo Energy Facility to be located on ten acres of undeveloped desert habitat, creosote scrub, in the Palm Springs area. The proposed site is bordered by undeveloped desert habitat, wind farms, and industrial buildings. The natural gas pipeline is proposed to connect to an existing pipeline south of Garnet Wash. The applicant proposes to trench south from the project site along a dirt road that runs between vacant graded lots and undeveloped desert habitat. The applicant plans to use directional drilling under Interstate 10.

A listing of legally protected species and their habitat in the vicinity of the project site is provided in Note 8.1 to the Evaluation Checklist table below. The site is more than 30 miles west of the nearest Critical Habitat Unit for desert tortoise.

The Indigo Energy Facility power plant site will directly and permanently impact 10-acres of creosote scrub habitat. Although no special-status species were found during surveys, the area has potential habitat for many special-status plants and animals. Although ten acres is a relatively small disturbance area, desert habitat continues to be lost to growth and development of the Palm Springs area. The Indigo Energy Facility would add to these habitat losses. The proposed Indigo Energy Facility, and existing

wind farms and industrial buildings would cumulatively reduce habitat for desert species.

The gas pipeline will have a temporary impact on desert habitat. North of Interstate 10 the pipeline route will utilize an existing dirt road causing little additional impacts. South of Interstate 10 the pipeline will impact creosote scrub habitat and potential special-status plant and animal species habitat in and near Garnet Wash. Garnet Wash has not been legally designated critical habitat by the United States Fish and Wildlife Service (US F&WS). However, legally protected plant and animal species are associated with this type of desert wash habitat. These species include Coachella Valley milk-vetch, Little San Bernardino Mountains gilia, flat-seeded spurge, Arizona spurge, Coachella Valley fringe-toed lizard. Boring under Garnet Wash would avoid impacts to the wash and legally protected species habitat.

The applicant proposes to mitigate for the loss of desert land by paying \$600 per acre to a non-profit organization for habitat conservation. Energy Commission staff, in consultation with US F&WS and California Department of Fish and Game (CDFG), has determined that the amount the applicant proposes to pay will not be sufficient to purchase ten acres of similar habitat and also maintain, manage, monitor and operate the land. Based on its discussions with US F&WS and CDFG, staff recommends that compensation be donated to a nonprofit organization such as Friends of the Desert to buy ten acres of comparable habitat in the Coachella valley.

Staff has incorporated the standard conditions of certification BIO-1 through BIO-6. Staff has added additional conditions of certification BIO-7 through BIO-12 to ensure that appropriate actions are taken to prevent or mitigate impacts to sensitive habitat from construction and operation of the proposed project.

## **LAND USE**

The proposed project site is a vacant 10-acre parcel located north of Interstate 10, west of North Indian Avenue, on 19<sup>th</sup> Avenue in the City of Palm Springs. Although the site has not been previously developed, on-site disturbances include evidence of off-road vehicle use and debris from other human activity. Surrounding land uses include an existing business park to the southeast, 19<sup>th</sup> Avenue to the south, and a wind farm immediately adjacent to the site to the northeast. Parcels adjacent to the proposed site to the north and west are currently vacant. The nearest residential area is located approximately 1 mile to the northeast, near the intersection of North Indian Avenue and 18<sup>th</sup> Avenue.

The proposed project site is located in a largely undeveloped desert location intended for industrial, business park, and alternative energy uses within the City of Palm Springs. The General Plan land use designation for the project site is Energy/Industrial (E/I), and the zoning designation is General Manufacturing (M-2).

The proposed use is consistent with the Palm Springs General Plan land use designation. However, the proposed project was not originally a permitted use within the M-2 manufacturing zone. According to Section 92.17.1.00 of the Palm Springs

Zoning Ordinance, this zone “is intended to provide for the development of industrial uses which include fabrication, manufacturing, assembly or processing which do not in their maintenance, assembly, manufacture, or plant operation create by-products to any degree which will adversely affect the resort-open space environment of the city.”

On March 21, 2001 the Palm Springs City Council adopted Resolution NO. 20014 in support of the Indigo facility, noting that the facility “is in harmony with the various elements of the General Plan, and is not detrimental to the existing or future uses specifically permitted in the zone which the proposed use is to be located.” In addition, the City Council approved Urgency Ordinance NO. 1593, amending the city’s Zoning Ordinance to conditionally permit natural gas powered generating facilities not exceeding 150 MW within the M2 manufacturing zone. Therefore, the proposed project is consistent with the City’s Zoning district.

In Resolution 20014, the City of Palm Springs has recommended several requirements be incorporated in the Commission Decision. Staff has incorporated the following of the City’s recommendations into Condition of Certification **Land-1**:

- Final landscaping, irrigation, exterior lighting, and fencing plans should be reviewed by the Department of Planning and Building in the City of Palm Springs and by Riverside County Agricultural Commission.
- The landscaping should comply with the City of Palm Springs Water Efficient Landscaping Ordinance.
- Trees within the public right-of-way or within 10 feet of the public sidewalk should have City approved deep root barriers.
- Proposed sign should comply with the Palm Springs Zoning Ordinance.
- An exterior lighting plan should be implemented that is consistent with the Palm Springs Zoning Ordinance.
- The proposed project should contribute public art or fees in-lieu of the art at the rate of 0.5% of the Uniform Building Code valuation table.
- Outdoor storage should be screened from public view and should be part of the approved plan.
- Parking should be provided in accordance with City of Palm Springs Zoning Ordinance.
- A trash enclosure shall be provided.
- The applicant shall dedicate 44' of street right of way and construct 19th Avenue to its ultimate General Plan design, including full half-street improvements, across the entire property frontage.
- Applicant shall pave the 20' x44' Southern California Edison interconnect facility driveway, including curb cuts and driveway approach.
- The property is subject to the City of Palm Springs Transportation Uniform Mitigation Fee (TUMF). The applicant shall pay the appropriate TUMF fee.

The City of Palm Springs also requested that the Energy Commission require the project owner to indemnify the City. Staff recommends that this matter be left to a separate agreement between the City and the project owner, and not be a requirement of the certification decision. The other recommendations by the City of Palm Springs in its resolution have been incorporated in the appropriate technical sections of this report.

The applicant has not provided a map clearly showing the proposed equipment laydown area. In addition, the applicant has not provided adequate information regarding proposed administrative and warehousing facilities to be located near the project site. Because of potential impacts to cultural and biological resources at the project site, staff recommends that the equipment laydown area be clearly identified by the project owner for approval by the CPM to limit any potential impacts associated with construction activities (see proposed condition of certification BIO-7). The proposed administrative and warehousing facilities have not been discussed within the context of this application, and approval of the project does not constitute any approval or permitting of these facilities. Further discussion regarding potential cultural and biological resource impacts can be found in the **Cultural Resources** and **Biological Resources** sections of this report.

## TRAFFIC AND TRANSPORTATION

Site access is provided by Interstate 10 to Indian Avenue, then west on 19<sup>th</sup> Avenue. The proposed access route to the site is currently operating at a satisfactory level. The project will not generate significant traffic during operation. Normal project operation will not result in significant traffic impacts.

Offsite water line construction would occur along 19<sup>th</sup> Avenue and may temporarily disrupt local traffic patterns. The applicant has not included a Traffic Control Plan (TCP) as part of the application; a TCP would be required prior to the start of any roadway construction activities. Implementation of a TCP would reduce temporary traffic impacts to a less than significant level along 19<sup>th</sup> Avenue. Southern California Gas Company will construct a natural gas line for the project, which will require boring under Interstate 10. Implementation of Conditions of Certification **TRANS-2** and **TRANS-4** will ensure that construction-related traffic impacts are reduced to a less than significant level.

Construction traffic will be of a temporary nature, (2-3 months) and highly variable. No specific TCP for roads during project construction has been provided, but a list of safety measures to be included in the required TCP is provided. A TCP would be required prior to any road disruption. Conditions of Certification **TRANS-1** and **TRANS-2** will ensure project compliance with Caltrans and City/County limitations on vehicle sizes and weights, and limitations for encroachment into public right-of-way.

With implementation of the above mitigation measures the project's impact on traffic and transportation would be less than significant.

## **SOIL & WATER**

### **Water**

The Indigo facility will use approximately 240-gpm of water at peak use. The water will be used for evaporative inlet air cooling. The project plans to obtain water from the Mission Springs Water District (MSWD), which has a 12-inch water main that runs along the south side of the project site, or from a new on-site well. Mission Springs Water District has requested the Energy Commission to reject this proposed emergency power plant proposal due to concerns over possible aquifer draw down from the project's projected water use. Wildflower is currently attempting to address MSWD's concerns, and to negotiate a firm commitment from MSWD to supply water, but has also obtained a permit from Riverside County to drill a new well on-site in the event MSWD is unable to provide water for the project. Staff has recommended a condition of certification that will require modeling of the project's impact on the local aquifer before an on-site well can be drilled to supply the project. If Wildflower is unable to obtain an agreement from MSWD to supply the project with water, staff will review the impact project water use will have on the local aquifer, and will require appropriate mitigation to avoid significant impacts.

The only wastewater discharge from the facility will be storm drainage, which will be routed to an oily water separator.

### **Soils**

During project construction and operation, wind and water action can erode unprotected surfaces. An increase in the number of impervious surfaces (paved, compacted, etc.) can increase runoff, leading to the erosion of unprotected surfaces. Applicant has provided a draft Erosion and Sediment Control Plan, which identifies potential temporary and permanent erosion, and storm water runoff control measures. The final plan will include specific best management practices (BMPs) to control storm water related pollution and minimize erosion and is subject to approval by the CPM.

No additional mitigation is required based on the present knowledge of the site.

No additional conditions of certification are required.

### **Spill Prevention/ Water Quality Protection**

Lubricating oil, turbine oil and hydraulic oil will be on site. Ammonia will be used on site for air pollution control using a Selective Catalytic Reduction (SCR) unit. The purposed aqueous ammonia concentration is approximately 19.5 percent, and onsite storage will be in a 10,000-gallon tank. The onsite storage and handling will be regulated under the California Accidental Release Program (CalARP) requirements (California Health and Safety Code, Section 2770.1).

The construction site is more than 5 acres, so the applicant will need to obtain a National Pollution Discharge Elimination System (NPDES) permit for storm water

Discharge from construction activities that will need to be issued by the local Regional Water Quality Control Board (RWQCB). In addition to submitting a Notice of Intent, the applicant must develop a Storm Water Pollution Prevention Plan (SWPPP) as part of the NPDES permit application. During construction, the applicant will adhere to Best Management Practices (BMPs) for storm water pollution prevention.

The operating facility will require a NPDES permit. A Notice of Intent (NOI) will be submitted by the applicant to the RWQCB before the start of industrial activities. A SWPPP and Storm Water Monitoring Plan will then be prepared for the site. All chemicals stored onsite will be in closed containers and will include secondary containment to prevent the flow of chemicals into storm sewers.

## **CULTURAL RESOURCES**

Cultural resources information provided to the applicant's consultant, URS Corporation, by the Eastern Information Center was reviewed, and the information contained therein was verified. No previously known cultural resource sites are within the Indigo Energy Facility Area of Potential Effect (APE). Two historic sites, CA RIV-3441H and CA-RIV-6381H, are within one mile of the APE, but will not be affected.

The entire APE, including linear rights of way, was surveyed by two qualified archaeologists February 16, 2001. No new cultural resources were identified. The results of their investigation are contained in the *Indigo Energy Facility Cultural Resources Technical Report*.

The proposed APE is located on previously undisturbed soils. Excavation of footings and grading would provide the possibility for revealing previously undocumented subsurface cultural features. Adequate monitoring by a cultural resource specialist should permit this project to proceed and will allow for the protection of any subsurface archaeological and/or historic features that might be encountered.

In the unlikely event that buried cultural materials or deposits are found during project construction or related activities, work in that vicinity should stop immediately until an assessment can be made of the finds by a qualified archaeologist. Should human remains be encountered, work in the vicinity must halt and the Riverside County Coroner must be immediately notified. Suspected human skeletal remains will never be handled or removed from their initial discovery location until a qualified archaeologist or the Riverside County Coroner is present. If human remains are noticed only after an excavation has re-deposited the materials, then the suspected materials and associated deposit should remain covered until assessed by the Riverside County Coroner. If the remains are determined to be Native American, the Riverside County Coroner will contact the Native American Heritage Commission to determine the most likely descendant. The applicant, in association with the Compliance Project Manager, will coordinate with the most likely descendant regarding the proper treatment of any human remains and/or associated artifacts.

All questionable materials inadvertently discovered—including suspected or not readily identifiable cultural resources—must be considered significant by the Indigo

construction crew until an archaeological specialist can provide an accurate assessment. If potentially significant cultural resources are detected and cannot be avoided by Indigo construction, the impacts must be mitigated through data recovery or other means in consultation with pertinent agencies and concerned parties.

## **VISUAL**

The project site is characterized by flat and rolling desert terrain with sparse vegetation and undeveloped parcels. An existing wind farm lies immediately adjacent to the site to the northeast, and existing transmission lines located to the west of the site would be utilized by the proposed project. There are no important aesthetic resources in or near the project area, and the nearest residences are located approximately 1 mile away. The majority of existing public views of the site would be from Interstate 10, which lies approximately 0.5 miles to the south. The proposed project would include 3 exhaust stacks measuring 105 feet in height, as well as a new 65 to 70 foot wood utility pole for interconnection to the existing transmission lines located to the west of the site. The location of the existing wind farm adjacent to the proposed site, with windmills measuring approximately 296 feet in height to the top of the blades, has already resulted in reduced visual quality of the area.

The applicant has proposed visual mitigation consisting of architectural and landform elements to integrate the proposed project into the existing environment. The proposed mitigation includes modular, stepped walls along 19<sup>th</sup> Avenue, boulders, desert plants, and groundcover. The proposed landscaping would reduce aesthetic impacts of the modular wall along 19<sup>th</sup> Avenue. Additional landscape material would surround the site, including an 8-foot chain link fence with *Pyracantha coccinea* (Scarlet firethorn) vines, reducing potential visual impacts from other directions. The distance of the project from Interstate 10 to the south and the use of landscaping to soften views of the project site from other directions will serve to ensure that visual impacts would be less than significant.

The project is subject to specific Conditions of Certification **VIS-1**, **VIS-2**, and **VIS-3**, which require steps to ensure mitigation of potential visual impacts and a landscaping plan for the project. These measures will reduce aesthetic impacts to a less than significant level.

## **ENVIRONMENTAL JUSTICE**

For all siting cases, including the emergency permitting process, Energy Commission staff follows the federal guidelines' two-step screening process. The process assesses:

- whether the potentially affected community includes minority and/or low-income populations; and
- whether the environmental impacts are likely to fall disproportionately on minority and/or low-income members of the community.

Based on the screening process for the subject facility, there are no minority or low-income populations within the project area. Therefore, there are no environmental justice issues associated with the Indigo Energy Facility project.

## **TRANSMISSION SYSTEM ENGINEERING**

The Indigo facility will connect to the SCE system through a 1,200-foot tap-line connected to the Devers-Garnett 115 kV transmission line. The project will provide important peaking generation to assist in maintaining system reliability and service to local loads. There are no significant transmission issues. Based on the results of the interconnection study, the operation of Indigo facility will not require significant downstream electric facilities and will comply with safety standards<sup>1</sup>. However, the interconnection of the project could result in a springtime overload of one transmission line under normal conditions and could potentially overstress many circuit breakers. The California Independent System Operator will proscribe mitigation measures for the Indigo power plant. No new or modified facilities will be located outside existing substation fence lines<sup>2</sup>.

- The springtime overload will require the reinforcement of the overloaded line, congestion management or the implementation of a generator tripping scheme that trips the Indigo facility under certain conditions.
- The short circuit analysis found that the Indigo project could impact as many as five bulk power substations and twenty-one 115 kV substations. The requirements for circuit breaker replacement will be determined in the Facility Study phase of the interconnection analysis.

Thus, the interconnection of the Indigo power plant will not require the construction of downstream facilities and there are no significant transmission issues.

## **CONCLUSION**

The Indigo project, if built and operated in compliance with the proposed conditions of certification included in this staff assessment, will be available in time to help alleviate the current emergency. The proposed conditions of certification serve to protect the public interest and the environment. Staff recommends approval of this project.

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<sup>1</sup> CPUC General Order 95, CPUC Rule 21, Title 8 California Code of Regulations (CCR) Articles 35, 36 and 37, Title 8 CCR, Sections 2700-2974, CPUC Decision 93-11-013, Federal Communications Commission Part 15, Public Resources Code 4292-4296, and the National Electric Code.

<sup>2</sup> WINTEC X Interconnection Study, Phase I Results, Southern California Edison Company, March 27, 2001.



## **STAFF CHECKLIST**

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The following Emergency Permit Evaluation Checklist is designed to provide an easy-to-follow guide to the application and staff's analysis of project impacts. Included in the Checklist are the Application Requirements, a determination by staff of whether or not the material was provided, and the location of the information in the applicant's document. The checklist then shows staff's analysis of significant issues, any special conditions needed to resolve those issues, and any required comments or references.

# INDIGO ENERGY FACILITY EMERGENCY PERMIT EVALUATION CHECKLIST CALIFORNIA ENERGY COMMISSION

<u>Application Requirement</u>	<u>Y/N</u>	<u>Application pages</u>	<u>Significant Issues</u>	<u>Special Conditions</u>	<u>Comments</u>
<b>1 Project Description</b>					
1.1 Project owner/operator (Name, title, address, phone)	Yes	p. 1			
1.2 Overview of power plant and linear facilities	Yes	pp. 1-2			
1.3 Structure demensions (size and height), plan and profile	Yes	p. 3; attachment 1			
1.4 Full size color photo of the site and rendering of proposed facility if available	Yes	Attachment 3			
1.5 Maximum foundation depth, cut and fill quantities	Yes	Page 3	None	None	Reinforced concrete mat foundations, approximately two to three feet thick, will rest on a site graded with balanced cut and fill.
1.6 Conformance with California Building Code	Yes	Page 4	None	None	All engineering design and construction work will be performed to the applicable LORS, including the California Building Code.

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
1.7 Proposed operation (hours per year)	Yes	p. 4			
1.8 Expected on-line date	Yes	p. 4			Project meets the Executive Order D-28 requirement of being online by Sept. 30, 2001 to qualify for this emergency permit process
1.9 Proposed duration of operation (years)	Yes	p. 4			
1.10 Identify transmission interconnection facilities	Y	p. 2 and p. 1 of System Impact Study	No significant issues	See standard condition	Approximately 1,200 foot line to Devers-Garnett 115 kV tab.
1.11 Transmission interconnection application	Y	Attachment 4			
1.12 "Down-stream" transmission facilities, if known	Y	Attachment 2	No significant downstream facilities. However circuit breakers may need to be replaced.	Circuit breakers should be sized to comply with a short-circuit analysis.	Circuit breaker impacts will be analyzed in the Facility Study.
1.13 Fuel interconnection facilities	Yes	p. 5			
1.14 Fuel interconnection application	Yes	Attachment 6			
1.15 Water requirements and treatment	Yes	p. 5			
1.16 Water interconnection facilities (supply/discharge)	Yes	p. 5			

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
1.17 Source and quality of water supply	Yes	p. 6, attachment 7	Mission Springs Water District has raised concerns about serving project.	None	Standard condition SOIL & WATER 3 requires the project owner to submit a copy of a valid water service agreement from an authorized water purveyor or a copy of a valid well permit for the project from the appropriate licensing agency prior to site mobilization.
1.18 Water supply agreement/ proof of water supply	Yes	p. 6, attachment 8	Mission Springs Water District (MSWD) has raised concerns about project's impact on the local aquifer.	SOIL & WATER-7 requires aquifer modeling and approval of mitigation if an on-site well will be used to supply water.	See note 1.18 below.
<b>2 Site Description</b>					
2.1 Site address (street, city, county)	Yes	Page 6	None		
2.2 Assessor's parcel number	Yes	Page 6	None		
2.3 Names and addresses of all property owners within 500 feet of the project site or related facilities in both hard copy and electronic mail merge format.	Yes	Page 6, attachment #9	None		

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
2.4 Existing site use	Yes	Page 7	The site has not been previously developed, although evidence of human disturbance is present.		See potential impacts analysis in Section 8, Biological Resources, and Section 13, Cultural Resources.
2.5 Existing site characteristics (paved, graded, etc.)	Yes	Page 7 and attachment #19	The site has not been previously developed, although evidence of human disturbance is present.		See potential impacts analysis in Section 8, Biological Resources, and Section 13, Cultural Resources.
2.6 Layout of site (include plot plan)	Yes	Page 7 and attachment #1	See 2.10		See potential impacts analysis in Section 8, Biological Resources, and Section 13, Cultural Resources.
2.7 Zoning and general plan designations of site and linear facilities	Yes	Page 7	None		The Palm Springs City City Council approved an emergency zoning ordinance on 3/21/01 to ensure consistency with current zoning.
2.8 Ownership of site (Name, address, phone)	Yes	Page 8	None		
2.9 Status of site control	Yes	Page 8	None		
2.10 Equipment laydown area – size and location	Yes	Page 8	Laydown area should be located in areas to be disturbed during the construction and landscaping of the facility.	BIO-7 requires CPM approval of lay down and parking area.	See potential impacts analysis in Section 8, Biological Resources, and Section 13, Cultural Resources.

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
<b>3 Construction Description</b>					
3.1 Construction schedule	Yes	p. 8			
3.2 Workforce requirements (peak, average)	Yes	p. 8-9			
<b>4 Power Purchase Contract (DWR, ISO, other)</b>					
4.1 Status of negotiations and expected signing date	Yes	p. 9			As of March 29, Wildflower anticipates signing a term sheet with DWR by Monday, April 2.
<b>5 Air Emissions</b>					
5.1 Nearest monitoring station (location, distance)	Yes	p. 9			
5.2 Provide complete self certification air permit checklist	Yes	Attachment 10			
5.3 Provide complete air permit application	Yes	Provided as separate document			

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
5.4 Status of air permit application with air district	Yes	pp. 9-10		Condition AIR-2 requires the project owner to comply with the final permit approved by the air district	South Coast AQMD issued a notice of their draft permit on March 28, starting a 30-day public comment period. The final permit is expected to be issued shortly after the end of the comment period. The notice is included in this report as App. A, and the draft permit is included as App. B.
5.5 Status of offsets and/or mitigation fees, as required	Yes	p. 10			
<b>6 Noise</b>					
6.1 Local noise requirements	Yes	Page 10, Attachment #11	None		
6.2 Nearest sensitive receptor (type, distance)	Yes	Page 11 and map in AQ Application	None		
6.3 Project noise level at nearest property line	Yes	Page 11	Project noise levels at the property line may exceed allowable evening and overnight noise standards.	None	Standard condition NOISE-1 requires project to comply with applicable community noise standards.

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
6.4 Proposed mitigation if required	Yes	Page 11	Applicant proposed noise mitigation does not discuss 8' wall shown on landscape plan.	None	See above.
<b>7 Hazardous Materials</b>					
7.1 Type and volume of hazardous materials on-site	Y	Section 7	none	HAZ-1	Standard condition HAZ-1 has been changed to clarify that approved materials include those that were identified by type and quantity in the application.
7.2 Storage facilities and containment	Y	Section 7	none		
<b>8 Biological resources</b>					
8.1 Legally protected species* and their habitat on site, adjacent to site and along right of way for linear facilities ( <i>*threatened or endangered species on State or federal lists, State fully protected species</i> )	Y	Page 12-13 Attachment 12	No legally protected species were found during surveys, however habitat for legally protected plant and animal species is present on site, adjacent to site and along the utility right of way.	Bio-7 Bio-9 Bio-10 See conditions of certification below	See note 8.1 below on legally protected species. Survey for reptiles to be complete week of April 2, consistent with U.S. Fish & Wildlife Service protocols calling for such surveys to take place no earlier than April.



<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
8.2 Designated critical habitat on site or adjacent to site (wetlands, vernal pools, riparian habitat, preserves)	Y	Page 13 Attachment 12	The gas pipeline may impact Garnet Wash.	Bio-11	See note 8.2 below on Garnet Wash and Desert Tortoise.
8.3 Proposed mitigation as required	Y	Page 13	Additional mitigation is required for loss of desert habitat by agencies.	Bio-8	See note 8.3 below on additional mitigation.
<b>9 Land Use</b>					
9.1 Local land use restrictions (height, use, etc.)	Yes	Page 13	None		The Palm Springs City Council approved an emergency zoning ordinance on 3/21/01 to ensure consistency with current zoning and land use restrictions.
9.2 Use of adjacent parcels (include map)	Yes	Page 13 and attachment #9	None		
9.3 Ownership of adjacent parcels – site and linears	Yes	Page 13 and attachment #9	None		
9.4 Demographics of census tract where project is located (most current available)	Yes	Pages 13-14	None		

<u>Application Requirement</u>	<u>Y/N</u>	<u>Application pages</u>	<u>Significant Issues</u>	<u>Special Conditions</u>	<u>Comments</u>
<b>10 Public Services</b>					
10.1 Ability to serve letter from Fire District	Yes	Attachment 14			
10.2 Nearest fire station	Yes	p. 14			
<b>11 Traffic and Transportation</b>					
11.1 Level of Service (LOS) measurements on surrounding roads – a.m. and p.m. peaks	Yes	Page 15	None		a.m. and p.m. peak information not available, 24-hour counts and average daily trip (ADT) information supplied in application.
11.2 Traffic Control Plan for roads during construction period	Yes	Pages 15-16	None		
11.3 Traffic impact of linear facility construction	Yes	Page 16	None		
11.4 Equipment transport route	Yes	Page 16	None		
11.5 Parking requirements – workforce and equipment	Yes	Page 17	Parking area should be located in areas to be disturbed during the construction and landscaping of the facility.	BIO-7 requires CPM approval of lay down and parking area.	See potential impacts analysis in Section 8, Biological Resources, and Section 13, Cultural Resources.
<b>12 Soil and Water Resources</b>					
12.1 Wastewater volume, quality, treatment	Y	17			

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
12.2 Status of permits for wastewater discharge or draft permit (WDR/NPDES)	Y	17			
12.3 Draft Erosion Prevention and Sedimentation Control Plan or Mitigation Strategy	Y	17 and attachment 15	BMP's used such as straw waddles and straw bales shall be certified weed free.	Soil&Water-5	
12.4 Spill Prevention/Water Quality Protection Plans	Y	17-18 attachment 20		Soil&Water-6	Detailed plans will be submitted to the CPM.
<b>13 Cultural Resources</b>					
13.1 Identification of known historic/prehistoric sites	Yes	Page 18			Cultural resources information verified.
13.2 Proposed mitigation if required	Yes	Page 18-19	Slight possibility that subsurface cultural resources could be encountered in project area.	Standard condition of certification CUL-1 does not apply due to slight possibility that cultural resources could be encountered in project area.	Cultural Resource monitor should be required for earth moving activities. See standard condition of certification CUL-2.

<b><u>Application Requirement</u></b>	<b><u>Y/N</u></b>	<b><u>Application pages</u></b>	<b><u>Significant Issues</u></b>	<b><u>Special Conditions</u></b>	<b><u>Comments</u></b>
<b>14 Paleontological Resources</b>					
14.1 Identification of known paleontologic sites	Yes	Page 19	None	None	Letter from San Bernardino County Museum dated March 28, 2001 confirmed paleontology literature and records review, Indigo Energy Facility.
14.2 Proposed mitigation if required	Yes	Page 19	None	Standard condition of certification PALEO-1 does not apply due to slight possibility that paleontologic resources could be encountered in project area.	None
<b>15 Visual resources</b>					
15.1 Plan for landscaping and screening to meet local requirements	Yes	Page 20 and attachment #16	None		
15.2 Full size color photo of the site and rendering of proposed facility with any proposed visual mitigation if available	Yes	Attachments #3 and #19, as well as photos in attachment #12.	None		

<u>Application Requirement</u>	<u>Y/N</u>	<u>Application pages</u>	<u>Significant Issues</u>	<u>Special Conditions</u>	<u>Comments</u>
<b>16 Transmission System Engineering</b>					
16.1 Conformance with Title 8, High Voltage Electrical Safety Orders, CPUC General Order 95 (or NESC), CPUC Rule 21, PTO Interconnection Requirements, and National Electric Code	Yes	p. 20	None		

## EVALUATION CHECKLIST NOTES

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### 1.18 WATER SUPPLY AGREEMENT/ PROOF OF WATER SUPPLY

Mission Springs Water District has expressed concern that the project's water use will negatively impact the local aquifer, and has requested the Energy Commission to deny a permit for the project. Wildflower is currently attempting to address MSWD's concerns and to negotiate an agreement for MSWD to serve the project. Wildflower also reports that it has obtained a permit to drill an on-site well from Riverside County on March 28. Staff has not evaluated the impacts of an on-site well on the local aquifer, and has included Condition of Certification SOIL & WATER-7 to require Wildflower to model the impact on the aquifer if it is going to use an on-site well. This condition also requires CPM approval of a mitigation plan as appropriate before Wildflower can begin drilling an on-site well.

### 8.1 LEGALLY PROTECTED SPECIES AND THEIR HABITAT

The Coachella Valley milk-vetch (*A. lentiginosus coachella*) is federally endangered plant. The plant occurs on dry open areas among sagebrush. Habitat for this species may exist on site and along the utility right-of-way in and near Garnet Wash.

The Little San Bernardino Mountains gilia (*Gilia maculata*) is a federal species of concern. This plant is usually found at elevations of 190-1100 meters in sandy flats. The site has an elevation of approximately 240 meters and habitat for this plant exists along the utility right-of-way in and near Garnet Wash.

The flat-seeded spurge (*Chamaesyce platysperma*) is a federal species of concern. This plant occurs in sandy soils at elevations less than 100 meters. The elevation and absence of sand on the site make it less likely to occur at the facility site. Habitat along the utility right-of-way near Garnet Wash has potential for this species.

The Arizona spurge (*Chamaesyce arizonica*) is a list 2 species according to the California Native Plant Society. The plant occurs mainly in sandy flats at less than 300 meters in elevation. The facility site lacks sandy soil, but habitat for the plant exists along the utility right-of-way near Garnet Wash.

Habitat for the Palms Springs Desert Pocket mouse (*Chaetodipus penicillatus*) and Coachella Valley round-tailed ground squirrel (*Spermophilus tereticaudus chlorus*) is present on the site and along the proposed utility right-of-way. These two mammals are locally sensitive species protected under the Coachella Valley Habitat Multi-species Conservation Plan.

Desert tortoises are federally threatened and have been seen approximately 2 miles from the facility site. The desert tortoise is most common in desert scrub, desert wash, and Joshua tree habitats, but occurs in almost every desert habitat. They require friable soil for burrow and nest construction. High densities of desert tortoises are found in creosote bush communities with extensive annual wildflower blooms. More commonly in this area, desert tortoises are found in the surrounding desert mountain habitat, although they occasionally utilize the Coachella Valley.

The Coachella Valley fringe-toed lizard (*Uma inornata*) is federally threatened and state endangered. It inhabits sandy areas in the Coachella Valley. Habitat for this species is present south of Interstate 10 along the utility right-of-way.

The flat-tailed horned lizard has no state or federal status. However, the species is thought to be threatened and is expected to be federally listed. It is found in areas of creosote bush, desert scrub, wash, succulent shrub, and alkali scrub habitats. Potential habitat for the species may exist on the facility site and along the utility right-of-way.

Many sensitive species of birds could potentially use the site for foraging. Raptors, such as the American peregrine falcon, ferruginous hawk, golden eagle, prairie falcon, merlin, and the short-eared owl may use the site foraging for small mammals and reptiles. The industrial buildings and wind farms adjacent to the site have previously reduced the quality of foraging habitat. The site lacks nesting habitat for all special-status species, but burrowing owls. No burrowing owls or signs of burrowing owls were found on the facility site or the utility right-of-way. Electrocution of raptors is a concern. The project permitted will reduce the risk of large bird electrocution by using methods identified in Suggested Practices for Raptor Protection on Power lines: The State of the Art in 1996 (APLIC 1996).

## **8.2 CRITICAL HABITAT**

Garnet wash has not been legally designated critical habitat by the United States Fish and Wildlife Service. However, a few legally protected plant and animal species are associated with this type of desert wash habitat. These species include Coachella Valley milk-vetch, Little San Bernardino Mountains gilia, flat-seeded spurge, Arizona spurge, Coachella Valley fringe-toed lizard. Boring under Garnet Wash would be sufficient to avoid impacts to the wash and legally protected species habitat.

## **8.3 ADDITIONAL MITIGATION**

The Indigo Energy Facility power plant site will directly and permanently impact 10-acres of creosote scrub habitat. Although, no special-status species were found during surveys, the area has potential habitat for many special-status plants and animals as described. Ten acres is a relatively small disturbance area. However, desert habitat continues to be lost to growth and development of the Palm Springs area. Indigo Energy Facility would add to the habitat losses. The proposed Indigo Energy Facility, and existing wind farms and industrial buildings would cumulatively reduce habitat for desert species. The gas pipeline will also impact desert habitat. South of Interstate 10 the pipeline will impact creosote scrub habitat and potential special-status plant and animal species habitat associated with Garnet Wash. The Indigo project consists of potential habitat for special-status plant and wildlife species. This habitat loss shall be compensated. The amount the applicant proposes to pay to the city will not be sufficient to purchase ten acres of similar habitat and also maintain, manage, monitor and operate the land. Staff recommends that compensation be donated to a nonprofit organization to buy ten acres of comparable habitat in the Coachella valley.

# **INDIGO ENERGY FACILITY GENERAL CONDITIONS INCLUDING COMPLIANCE MONITORING AND CLOSURE PLAN**

## **INTRODUCTION**

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General conditions (and the Compliance Plan) have been established as required by Public Resources Code section 25532. The plan provides a means for assuring that the facility is constructed, operated and closed in accordance with applicable environmental and public health and safety laws, ordinances, regulations, and standards, and with conditions of certification as approved by the California Energy Commission (Energy Commission).

The Compliance Plan is comprised of general conditions and technical (environmental and engineering) conditions as follows:

- General conditions that set forth the duties and responsibilities of the Compliance Project Manager (CPM), the project owner, and delegate agencies; the requirements for handling confidential information and maintaining the compliance record; procedures for settling disputes and making post-certification changes; administrative procedures to verify the compliance status; and requirements for facility closure plans.
- Specific conditions for each technical area contain the measures required to mitigate potential adverse impacts associated with construction, operation and closure to an insignificant level. Specific conditions may also include a verification provision that describes the method of verifying that the condition has been satisfied.

## **DEFINITIONS**

To ensure consistency, continuity and efficiency, the following terms, as defined, apply to all technical areas, including Conditions of Certification:

### **SITE MOBILIZATION**

Moving trailers and related equipment onto the site, usually accompanied by minor ground disturbance, grading for the trailers and limited vehicle parking, trenching for utilities, installing utilities, grading for an access corridor, and other related activities. Ground disturbance, grading, etc. for site mobilization are limited to the portion of the site necessary for placing the trailers and providing access and parking for the occupants. Site mobilization is for temporary facilities and is therefore not considered construction.



## **GROUND DISTURBANCE**

Onsite activity that results in the removal of soil or vegetation, boring, trenching or alteration of the site surface. This does not include driving or parking a passenger vehicle, pickup truck, or other light vehicle, or walking on the site.

## **GRADING**

Onsite activity conducted with earth-moving equipment that results in alteration of the topographical features of the site such as leveling, removal of hills or high spots, or moving of soil from one area to another.

## **CONSTRUCTION**

[From Public Resources Code section 25105.] Onsite work to install permanent equipment or structures for any facility. Construction does **not** include the following:

- a. The installation of environmental monitoring equipment.
- b. A soil or geological investigation.
- c. A topographical survey.
- d. Any other study or investigation to determine the environmental acceptability or feasibility of the use of the site for any particular facility.
- e. Any work to provide access to the site for any of the purposes specified in a, b, c, or d.

## **TERM OF CERTIFICATION**

Certification is for the life of the project if at the end of the power purchase agreement with either the California Independent System Operator or the California Department of Water Resources the project owner can verify that the project meets the following continuation criteria:

- the project meets BACT and has permanent air emission offsets for the projected run hours,
- the project is in compliance with all Energy Commission conditions specified in the Decision,
- the project will continue to have control of the site, and
- the project is a permanent facility.

## **COMPLIANCE PROJECT MANAGER (CPM) RESPONSIBILITIES**

A CPM will oversee the compliance monitoring and shall be responsible for:

1. ensuring that the design, construction, operation, and closure of the project facilities is in compliance with the terms and conditions of the Commission Decision;
2. resolving complaints;

3. processing post-certification changes to the conditions of certification, project description, and ownership or operational control;
4. documenting and tracking compliance filings; and,
5. Ensuring that the compliance files are maintained and accessible.

The CPM is the contact person for the Energy Commission and will consult with appropriate responsible agencies and the Energy Commission when handling disputes, complaints and amendments.

The Commission has established a toll free compliance telephone number of **1-800-858-0784** for the public to contact the Commission about power plant construction or operation-related questions, complaints or concerns.

#### **Pre-Construction and Pre-Operation Compliance Meeting**

The CPM may schedule pre-construction and pre-operation compliance meetings prior to the projected start-dates of construction, plant operation, or both. The purpose of these meetings will be to assemble both the Energy Commission's and the project owner's technical staff to review the status of all pre-construction or pre-operation requirements contained in the Energy Commission's conditions of certification to confirm that they have been met, or if they have not been met, to ensure that the proper action is taken.

#### **Energy Commission Record**

The Energy Commission shall maintain as a public record, in either the Compliance file or Docket file, for the life of the project (or other period as required):

1. All documents demonstrating compliance with any legal requirements relating to the construction and operation of the facility;
2. All complaints of noncompliance filed with the Energy Commission; and,
3. All petitions for project modifications and the resulting staff or Energy Commission action taken.

### **PROJECT OWNER RESPONSIBILITIES**

It is the responsibility of the project owner to ensure that the general compliance conditions and the conditions of certification are satisfied. The general compliance conditions regarding post-certification changes specify measures that the project owner must take when requesting changes in the project design, compliance conditions, or ownership. Failure to comply with any of the conditions of certification or the general compliance conditions may result in reopening of the case and revocation of Energy Commission certification, an administrative fine, or other action as appropriate.

## **Access**

The CPM, responsible Energy Commission staff, and delegate agencies or consultants, shall be guaranteed and granted unrestricted access to the power plant site, related facilities, project-related staff, and the records maintained on site, for the purpose of conducting audits, surveys, inspections, or general site visits. Although the CPM will normally schedule site visits on dates and times agreeable to the project owner, the CPM reserves the right to make unannounced visits at any time.

## **Compliance Record**

The project owner shall maintain project files on-site or at an alternative site approved by the CPM, for the life of the project. The files shall contain copies of all “as-built” drawings, all documents submitted as verification for conditions, and all other project-related documents for the life of the project, unless a lesser period is specified by the conditions of certification.

Energy Commission staff and delegate agencies shall, upon request to the project owner, be given unrestricted access to the files.

## **Compliance Verifications**

Condition of certification may have appropriate means of “verification”. The verification describes the Energy Commission’s procedure(s) to ensure post-certification compliance with adopted conditions. The verification procedures, unlike the conditions, may be modified, as necessary by the CPM, without full Energy Commission approval.

Verification of compliance with the conditions of certification can be accomplished by:

1. reporting on the work done and providing the pertinent documentation in monthly and/or annual compliance reports filed by the project owner or authorized agent as required by the specific conditions of certification;
2. appropriate letters from delegate agencies verifying compliance;
3. Energy Commission staff audits of project records; and/or
4. Energy Commission staff inspections of mitigation and/or other evidence of mitigation.

A cover letter from the project owner or authorized agent is required for all compliance submittals and correspondence pertaining to compliance matters. The cover letter subject line shall identify the involved condition(s) of certification by condition number and include a brief description of the subject of the submittal.

All submittals shall be addressed as follows:

**Compliance Project Manager  
California Energy Commission  
1516 Ninth Street (MS-2000)  
Sacramento, CA 95814**

## **Confidential Information**

Any information, which the project owner deems confidential shall be submitted to the Energy Commission's Docket with an application for confidentiality pursuant to Title 20, California Code of Regulations, section 2505(a). Any information, which is determined to be confidential, shall be kept confidential as provided for in Title 20, California Code of Regulations, section 2501 et. seq.

## **Reporting of Complaints, Notices, and Citations**

Prior to the start of construction, the project owner must send a letter to property owners living within 500 feet of the project notifying them of a telephone number to contact project representatives with questions, complaints or concerns. If the telephone is not staffed 24 hours per day, it shall include automatic answering, with date and time stamp recording. The telephone number shall be posted at the project site and easily visible to passersby during construction and operation.

The project owner shall report and provide copies of all complaint forms, notices of violation, notices of fines, official warnings, and citations, within 10 days of receipt, to the CPM.

## **GENERAL CONDITIONS FOR FACILITY CLOSURE**

In order to ensure that a planned facility closure does not create adverse impacts, plant closure must be consistent with all applicable laws, ordinances, regulations, standards (LORS), and local/regional plans in existence at the time of closure. To ensure adequate review of a planned project closure, the project owner shall submit a proposed facility closure plan to the Energy Commission for review and approval at least three months prior to commencement of closure activities (or other period of time agreed to by the CPM).

## **DELEGATE AGENCIES**

To the extent permitted by law, the Energy Commission may delegate authority for compliance verification and enforcement to various state and local agencies that have expertise in subject areas where specific requirements have been established as a condition of certification. If a delegate agency does not participate in this program, the Energy Commission staff will establish an alternative method of verification and enforcement. Energy Commission staff reserves the right to independently verify compliance.

In performing construction and operation monitoring of the project, the Energy Commission staff acts as, and has the authority of, the Chief Building Official (CBO). The Commission staff retains this authority when delegating to a local CBO. Delegation of authority for compliance verification includes the authority for enforcing codes, the responsibility for code interpretation where required, and the authority to use discretion, as necessary, in implementing the various codes and standards.

## **ENFORCEMENT**

The Energy Commission's legal authority to enforce the terms and conditions of its Decision is specified in Public Resources Code sections 25534 and 25900. The Energy Commission may amend or revoke the certification for any facility, and may impose a civil penalty for any significant failure to comply with the terms or conditions of the Commission Decision. The specific action and amount of any fines the Commission may impose would take into account the specific circumstances of the incident(s). This would include such factors as the previous compliance history, whether the cause of the incident involves willful disregard of LORS, inadvertence, unforeseeable events, and other factors the Commission may consider.

Moreover, to ensure compliance with the terms and conditions of certification and applicable laws, ordinances, regulations, and standards, delegate agencies are authorized to take any action allowed by law in accordance with their statutory authority, regulations, and administrative procedures.

## **NONCOMPLIANCE COMPLAINT PROCEDURES**

Any person or agency may file a complaint alleging noncompliance with the conditions of certification. Such a complaint will be subject to review by the Energy Commission pursuant to Title 20, California Code of Regulations, section 1230 et. seq., but in many instances the noncompliance can be resolved by using the informal dispute resolution process. Both the informal and formal complaint procedures, as described in current State law and regulations, are described below. They shall be followed unless superseded by current law or regulations.

## **INFORMAL DISPUTE RESOLUTION PROCEDURE**

The following procedure is designed to informally resolve disputes concerning interpretation of compliance with the requirements of this compliance plan. The project owner, the Energy Commission, or any other party, including members of the public, may initiate this procedure for resolving a dispute. Disputes may pertain to actions or decisions made by any party including the Energy Commission's delegate agents.

This procedure may precede the more formal complaint and investigation procedure specified in Title 20, California Code of Regulations, section 1230 et. seq., but is not intended to be a substitute for, or prerequisite to it. This informal procedure may not be used to change the terms and conditions of certification as approved by the Energy Commission, although the agreed upon resolution may result in a project owner proposing an amendment.

The procedure encourages all parties involved in a dispute to discuss the matter and to reach an agreement resolving the dispute. If a dispute cannot be resolved, then the matter must be referred to the full Energy Commission for consideration via the complaint and investigation process. The procedure for informal dispute resolution is as follows:

### **Request for Informal Investigation**

Any individual, group, or agency may request the Energy Commission to conduct an informal investigation of alleged noncompliance with the Energy Commission's terms and conditions of certification. All requests for informal investigations shall be made to the designated CPM.

Upon receipt of a request for informal investigation, the CPM shall promptly notify the project owner of the allegation by telephone and letter. All known and relevant information of the alleged noncompliance shall be provided to the project owner and to the Energy Commission staff. The CPM will evaluate the request and the information to determine if further investigation is necessary. If the CPM finds that further investigation is necessary, the project owner will be asked to promptly investigate the matter and within seven (7) working days of the CPM's request, provide a written report of the results of the investigation, including corrective measures proposed or undertaken, to the CPM. Depending on the urgency of the noncompliance matter, the CPM may conduct a site visit and/or request the project owner to provide an initial report, within forty-eight (48) hours, followed by a written report filed within seven (7) days.

### **Request for Informal Meeting**

In the event that either the party requesting an investigation or the Energy Commission staff is not satisfied with the project owner's report, investigation of the event, or corrective measures undertaken, either party may submit a written request to the CPM for a meeting with the project owner. Such request shall be made within fourteen (14) days of the project owner's filing of its written report. Upon receipt of such a request, the CPM shall:

1. Immediately schedule a meeting with the requesting party and the project owner, to be held at a mutually convenient time and place and secure the attendance of appropriate Energy Commission staff and staff of any other agency with expertise in the subject area of concern as necessary;
2. Conduct such meeting in an informal and objective manner; and,
3. After the conclusion of such a meeting, promptly prepare and distribute copies to all in attendance and to the project file, a summary memorandum which fairly and accurately identifies the positions of all parties and any conclusions reached.

## **FORMAL DISPUTE RESOLUTION PROCEDURE-COMPLAINTS AND INVESTIGATIONS**

If either the project owner, Energy Commission staff, or the party requesting an investigation is not satisfied with the results of the informal dispute resolution process, such party may file a complaint or a request for an investigation with the Energy Commission's General Counsel. Disputes may pertain to actions or decisions made by any party including the Energy Commission's delegate agents. Requirements for complaint filings and a description of how complaints are processed are in Title 20, California Code of Regulations, section 1230 et. seq.

The Chairman, upon receipt of a written request stating the basis of the dispute, may grant a hearing on the matter, consistent with the requirements of noticing provisions. The Commission shall have the authority to consider all relevant facts involved and make any appropriate orders consistent with its jurisdiction (Title 20, California Code of Regulations, sections 1232 - 1236).

## **POST CERTIFICATION CHANGES TO THE COMMISSION DECISION: AMENDMENTS, INSIGNIFICANT PROJECT CHANGES**

The project owner must petition the Energy Commission, pursuant to Title 20, California Code of Regulations, section 1769, to 1) delete or change a condition of certification; 2) modify the project design or operational requirements; and 3) transfer ownership or operational control of the facility.

A petition is required for **amendments** and for **insignificant project changes**. In all cases, the petition or letter requesting a change should be submitted to the Commission's Docket in accordance with Title 20, California Code of Regulations, section 1209. The criteria that determine which type of change process applies are explained below.

## **EXECUTIVE ORDER**

Executive Order D-25-01 issued by the Governor of the State of California, which accelerates processing of certain project modifications, will be applied to all qualifying project modifications requested until December 31, 2001.

## **AMENDMENT**

A proposed project modification will be processed as an amendment if it involves a change to a condition of certification, an ownership or operator change, or a potential significant environmental impact.

## **INSIGNIFICANT PROJECT CHANGE**

The proposed modification will be processed as an insignificant project change if it does not require changing the language in a condition of certification, have a potential for significant environmental impact, and cause the project to violate laws, ordinances, regulations or standards.

## **VERIFICATION CHANGE**

Changes to condition verifications require CPM approval and may require either a written or oral request by the project owner. The CPM will provide written authorization of verification changes.

## TECHNICAL AREA CONDITIONS OF CERTIFICATION

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### NOISE

**NOISE-1** The project permitted under this emergency process shall be required to comply with applicable community noise standards.

**Verification:** Within 30 days of the project first achieving a sustained output of 80 percent or greater of rated capacity, the project owner shall conduct a 25-hour community noise survey, utilizing the same monitoring sites employed in the pre-project ambient noise survey as a minimum. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints. Steam relief valves shall be adequately muffled to preclude noise that draws legitimate complaints. If the results from the survey indicate that the project noise levels at the closest sensitive receptor are in excess of 55 dBA  $L_{eq}$ , additional mitigation measures shall be implemented to reduce noise to a level of compliance with this limit.

**NOISE-2** Prior to the start of rough grading, the project owner shall notify all residents within one mile of the site of the start of construction and will provide a complaint resolution process.

**Verification:** The project owner shall provide the CPM with a statement, attesting that the above notification has been performed.

**NOISE-3** Throughout the construction and operation of the project, the project owner shall document, investigate, evaluate, and attempt to resolve all project related noise complaints.

**Verification:** Within 30 days of receiving a noise complaint, the project owner shall file a copy of the Noise Complaint Resolution Form, or similar instrument approved by the CPM, with the County Environmental Health Department, and with the CPM, documenting the resolution of the complaint. If mitigation is required to resolve a complaint, and the complaint is not resolved within a 30-day period, the project owner shall submit an updated Noise Complaint Resolution Form when the mitigation is finally implemented.

**NOISE-4** Night construction activities may be authorized by the CPM if they are consistent with local noise ordinances. Night construction, or specific night construction activities may be disallowed by the CPM if it results in significant impact to the surrounding community.

**Verification:** Noise monitoring and surveys may be conducted if complaints are reported by residence in the surrounding area of the project site.



## HAZARDOUS MATERIALS MANAGEMENT

**HAZ-1** The project owner shall not use any hazardous material in reportable quantities except those identified by type and quantity in the application unless approved by the CPM.

**Verification:** The project owner shall provide in the Annual Compliance Report a list of hazardous materials used at the facility in reportable quantities.

**HAZ-2** The project owner shall submit both the Business Plan and Risk Management Plan to the CPM for review and comment, and shall also submit these plans and/or procedures to the County Fire Department for approval.

**Verification:** 30 days (or a CPM-approved alternative timeframe) prior to the initial delivery of any hazardous materials in reportable quantities to the facility, the project owner shall submit the Business and Risk Management Plan to the CPM for review and comment. At the same time, the project owner shall submit these plans to the County Fire Department for approval. The project owner shall also submit evidence to the CPM that the County Fire Department approved of these plans, when available.

## WASTE

**WASTE-1** The project owner shall obtain a hazardous waste generator identification number from the Department of Toxic Substances Control prior to producing any hazardous waste.

**Verification:** The project owner shall keep its copy of the identification number on file at the project site.

**WASTE-2** The project owner shall have an environmental professional available for consultation during soil excavation and grading activities. The environmental professional shall be given full authority to oversee any earth moving activities that have the potential to disturb contaminated soil. The environmental professional shall meet the qualifications of such as defined by the American Society for Testing and Materials designation E 1527-97 Standard Practice for Phase I Environmental Site Assessments.

**Verification:** If potentially contaminated soil is unearthed during excavation at either the proposed site or linear facilities, the environmental professional shall inspect the site, determine the need for sampling to confirm the nature and extent of contamination, and make a recommended course of action. The environmental professional shall have the authority to suspend construction activity at that location. If, in the opinion of the environmental professional, remediation is to be required, the project owner shall consult with the CPM and a decision will be made by the CPM within 24 hours as to how to proceed.

## BIOLOGICAL

- BIO-1** The project permitted under this emergency process will avoid all impacts to legally protected species and their habitat on site, adjacent to the site and along the right of way for linear facilities.
- BIO-2** The project permitted under this emergency process will avoid all impacts to designated critical habitat (wetlands, vernal pools, riparian habitat, preserves) on site or adjacent to the site.
- BIO-3** The project permitted under this emergency process will avoid all impacts to locally designated sensitive species and protected areas.
- BIO-4** The project permitted under this emergency process will reduce risk of large bird electrocution by electric transmission lines and any interconnection between structures, substations and transmission lines by using construction methods identified in "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996" (APLIC 1996).
- BIO-5** The project biologist, a person knowledgeable of the local/regional biological resources, and CPM will have access to the site and linear rights-of-way at any time prior to and during construction and have the authority to halt construction in an area necessary to protect a sensitive biological resource at any time.
- BIO-6** Upon decommissioning the site, the biological resource values will be reestablished at preconstruction levels or better.

**Verification:** If the Designated Biologist halts construction, the action will be reported immediately to the CPM along with the recommended implementation actions to resolve the situation or decide that additional consultation is needed. Throughout construction, the project owner shall report on items one through six above if identified resources are found or impacted.

- BIO-7** Final designation of the equipment laydown area, construction parking area, and the designated access route for the natural gas pipeline and transmission line shall be approved by the CPM. During all construction activities associated with the gas pipeline disturbance will be kept to the minimum amount of required. Vehicles and equipment will use and remain inside a designated access route and disturbance area.

**Protocol:** During construction of the facility, the equipment laydown area and parking shall be within portions of the ten-acre site that will be otherwise disturbed during construction and landscaping of the facility. The CPM and/or biological monitors will ensure equipment and vehicles stay in designated areas and use exclusion flagging if necessary.

**Verification:** Prior to ground disturbance or grading, the project owner shall submit a map designating the area to be used for equipment laydown and parking for CPM approval. Prior to the start of any construction activities relating to the natural gas pipeline or transmission line, the project owner shall submit to the CPM maps showing the designated access routes and disturbance areas.

**BIO-8** To compensate for permanent impacts to desert habitat that could potentially be utilized by special-status species, the owner shall provide compensation funds for improvement or acquisition of ten acres of comparable desert habitat. The compensation fund will include endowment funds for administration, management, maintenance, monitoring, and operation of ten acres.

**Verification:** Once the final habitat compensation amount has been determined, prior to construction activities or at a time determined by the CPM, the project owner shall provide to the CPM a receipt or some notification from the entity that habitat compensation funds were received.

**BIO-9** A qualified biological monitor, certified to handle desert tortoise, shall be onsite during grading and construction activities on the ten-acre facility site and along the utility right-of-way to ensure the protection of biological resources.

**Protocol:** The biological monitor must meet the following minimum qualifications:

1. A Bachelor's Degree in biological sciences, zoology, botany, ecology or a closely related field.
2. Authorized by CDFG to monitor for and handle desert tortoise.
3. At least one year of field experience with biological resources found in or near the project area.
4. An ability to demonstrate to the satisfaction of the CPM the appropriate education and experience for biological resources tasks that must be addressed during project construction.

The biological monitor (BM) shall conduct the following:

1. Daily surveys of the construction area for wildlife.
2. Excavations left over night shall be covered so that wildlife does not become trapped. Excavations left over night shall be surveyed for trapped wildlife prior to the continuation of work.
3. If common species are encountered the wildlife shall be relocated to a safe area near the site.
5. If special-status plant or wildlife species are encountered, the BM shall halt construction activities and the project owner's Construction Manager shall contact the CPM.

6. The biological monitor shall ensure that the project owner's Construction Manager and crew maintain a clean work site free of litter and other hazardous wastes that could harm wildlife.

**Verification:** A copy of the biological monitor's qualifications, name, address and telephone number will be submitted to the CPM prior to grading or construction. The biological monitor shall maintain written records of the tasks described above and summaries of these records shall be submitted along with the monthly compliance reports to the CPM.

**Bio-10** The project owner's Construction Manager shall act on the advice of the Designated Biologist (DB) and the Biological Monitor (BM) to ensure conformance with the Biological Resources Conditions of Certification.

Protocol: The project owner's Construction Manager shall halt, if directed by the DB or the BM, all construction activities to assure that potentially significant biological resource impacts are avoided.

**Verification:** Immediately upon the DB or BM notification to halt construction, the project owner shall notify the CPM of the circumstances and actions being taken to resolve the problem.

**Bio-11** The project owner shall submit final route and construction information for the natural gas pipeline for California Department of Fish and Game (CDFG) review and CPM approval prior to the start of pipeline construction. A Streambed Alteration Agreement may be required by the California Department of Fish and Game (CDFG) if the new gas pipeline route requires trenching within Garnet Wash.

Protocol: The project owner shall avoid impacts to Garnet Wash from construction of the natural gas pipeline by avoiding the wash or drilling under the wash if possible. If pipeline construction results in impacts to Garnet Wash that require a Streambed Alteration Agreement, the project owner shall obtain that agreement from CDFG.

**Verification:** The project owner shall submit final route and construction information for the natural gas pipeline for California Department of Fish and Game (CDFG) review and CPM approval prior to the start of pipeline construction. If a Streambed Alteration Agreement is required by the CDFG, a copy shall be given to the CPM to ensure compliance. A copy of the agreement shall also be given to the Designated Biologist and the biological monitor.

**Bio-12** The project owner shall confer with the CPM and USFWS on the extent and schedule of installation of appropriate desert tortoise fencing and/or protective measures at the facility site.

**Verification:** The project owner shall install the fencing and/or protective measures in accordance with the recommendations of the USFWS and with the approval of the CPM. The installation of any fencing and/or protective measures required will occur prior to construction unless an alternate schedule is approved by the CPM.

## **LAND USE**

**LAND-1** The project permitted under this emergency process will conform to all applicable local, state and federal land use requirements, including general plan policies, zoning regulations, local development standards, easement requirements, encroachment permits, truck and vehicle circulation plan requirements, Federal Aviation Administration approval, and the Federal Emergency Management Agency National Flood Insurance Program.

**Protocol:** The project owner shall comply with the following conditions recommended by the City of Palm Springs in Resolution No. 20014:

- Final landscaping, irrigation, exterior lighting, and fencing plans should be reviewed by the Department of Planning and Building in the City of Palm Springs and by Riverside County Agricultural Commission.
- The landscaping should comply with the City of Palm Springs Water Efficient Landscaping Ordinance.
- Trees within the public right-of-way or within 10 feet of the public sidewalk should have City approved deep root barriers.
- Proposed sign should comply with the Palm Springs Zoning Ordinance.
- An exterior lighting plan should be implemented that is consistent with the Palm Springs Zoning Ordinance.
- The proposed project should contribute public art or fees in-lieu off the art at the rate of 0.5% of the Uniform Building Code valuation table.
- Outdoor storage should be screened from public view and should be part of the approved plan.
- Parking should be provided in accordance with City of Palm Springs Zoning Ordinance.
- A trash enclosure shall be provided.
- The applicant shall dedicate 44' of street right of way and construct 19th Avenue to its ultimate General Plan design, including full half-street improvements, across the entire property frontage.
- Applicant shall pave 20' x44' Southern California Edison interconnect facility driveway, including curb cuts and driveway approach.
- The property is subject to the City of Palm Springs Transportation Uniform Mitigation Fee (TUMF). The applicant shall pay the appropriate TUMF fee.

**Verification:** Prior to start of construction or at a later time approved by the CPM, the project owner will submit to the CPM documentation verifying compliance with the above referenced land use requirements.

## **TRAFFIC AND TRANSPORTATION**

**TRANS-1** The project permitted under this emergency process shall comply with Caltrans and City/County limitations on vehicle sizes and weights. In addition, the project owner or its contractor shall obtain necessary transportation permits from Caltrans and all relevant jurisdictions for roadway use.

**Verification:** The project owner shall keep copies of any oversize and overweight transportation permits received at the project site.

**TRANS-2** The project permitted under this emergency process shall comply with Caltrans and City/County limitations for encroachment into public rights-of-way and shall obtain necessary encroachment permits from Caltrans and all relevant jurisdictions.

**Verification:** The project owner shall keep copies of any encroachment permits received at the project site.

**TRANS-3** The project permitted under this emergency process shall ensure that permits or licenses are secured from the California Highway Patrol and Caltrans for the transport of hazardous materials.

**Verification:** The project owner shall keep copies of all permits/licenses acquired by the project owner and subcontractors concerning the transport of hazardous substances at the project site.

**TRANS-4** Following completion of construction of the power plant and all related facilities, the project owner shall return all roadways to original or as near original condition as possible.

## **SOIL & WATER RESOURCES**

**SOIL&WATER-1** Prior to ground disturbance, the project owner shall obtain CPM approval of a Storm Water Pollution Prevention Plan (SWPPP) as required under the General Storm Water Construction Activity Permit for the project.

**Verification:** Prior to ground disturbance, the project owner will submit a copy of the Storm Water Pollution Prevention Plan for the project to the CPM.

**SOIL&WATER-2** Prior to ground disturbance, the project owner shall obtain CPM approval of an Erosion Prevention and Sedimentation Control Plan.

**Verification:** The Erosion Control and Storm Water Management Plan for the project shall be submitted to the CPM prior to ground disturbance.

**SOIL&WATER-3** Prior to site mobilization, the project owner shall submit to the CPM, a copy of a valid water service agreement for water supplies for the project from an authorized water purveyor, or a copy of a valid well permit for the project from the appropriate licensing agency.

**Verification:** A copy of the water service agreement or well permit shall be submitted to the CPM prior to site mobilization.

**SOIL& WATER-4** Prior to ground disturbance, the project owner shall submit to the CPM a copy of a valid permit or agreement from the appropriate approving agency for wastewater discharge.

**Verification:** The permit or agreement for wastewater discharge shall be submitted to the CPM prior to operation.

**SOIL& WATER-5** All BMP's such as straw waddles and straw bales shall be certified weed free.

**SOIL& WATER-6** Prior to introduction of chemicals on site, such as aqueous ammonia, the project owner shall submit to the CPM a copy of the approved Spill Prevention Plan under the California Accidental Release Program.

**SOIL& WATER-7** Prior to initiation of drilling an on-site well, the project owner shall submit information on the project's projected annual water use, appropriate modelling showing the impact of the project's water use on the local aquifer, and a plan to mitigate excess draw down of the aquifer for CPM review and approval.

## **CULTURAL**

Standard Condition of Certification CUL-1 has not been included due to slight possibility that cultural resources could be encountered in project area.

**CUL-2** The project has been determined to have the potential to adversely affect significant cultural resources and the project owner shall ensure the completion of the following actions/activities:

1. Provide a cultural specialist who will have access to the site and linear rights-of-way at any time prior to and during ground disturbance.
2. The cultural specialist will provide training to appropriate construction personnel at the site, will install avoidance measures (as necessary), and will be present during appropriate ground disturbing activities. The cultural specialist has the authority to halt construction at a location if a significant cultural resource is found. If resources are discovered and

the cultural specialist is not present, the project owner will halt construction at that location and will contact the specialist immediately. The specialist will consult with the CPM and a decision will be made by the CPM within 24-hours as to how to proceed.

3. The project owner shall allow time for the cultural specialist to recover significant resource finds, and pay all fees necessary to curate recovered significant resources.

**Verification:** Throughout construction, the project owner shall inform the CPM concerning any substantive activity related to items 1 through 3 above. Should curation be necessary, the project owner shall inform the CPM as to how and where the resources were curated. Applicant will adhere to mitigation plan submitted in the *Indigo Energy Facility Cultural Resources Technical Report*.

## **VISUAL**

**VIS-1** Project structures treated during manufacture and all structures treated in the field, that are visible to the public, shall be painted in a neutral color consistent with the surrounding environment.

**Verification:** Prior to painting exposed services, the project owner shall identify the selected color for CPM approval.

**VIS-2** The project owner shall design and install all lighting such that light bulbs and reflectors are not visible from public viewing areas and illumination of the vicinity and the nighttime sky is minimized. Lighting must also be installed consistent with any local requirements.

**VIS-3** The project owner shall prepare and submit to the local planning department for review and comment, and to the CPM for review and approval a landscaping plan which provides for any or all of the following, as appropriate, to screen the project from view: berms, vegetation and trees, and slats in fencing.

**Verification:** Within 30 days of certification, the project owner shall submit the landscaping plan to the local planning department and the CPM.

## **FACILITY DESIGN**

**GEN-1** The project owner shall design, construct and inspect the project in accordance with the 1998 California Building Code (CBC) and all other applicable LORS in effect at the time initial design plans are submitted to the CBO for review and approval.

**Verification:** Within 30 days (or a lesser number of days mutually agreed to by the project owner and the CBO) after receipt of the Certificate of Occupancy, the project owner shall submit to the CPM a statement of verification, signed by the responsible design engineer, attesting that all designs, construction, installation and inspection



requirements of the applicable LORS and the Energy Commission's Decision have been met. The project owner shall provide the CPM a copy of the Certificate of Occupancy within 30 days of receipt from the CBO [1998 CBC, Section 109 – Certificate of Occupancy.] The project owner shall keep copies of plan checks and CBO inspection approvals at the project site.

## **PALEONTOLOGICAL RESOURCES**

Standard Condition of Certification PALEO-1 has not been included due to slight possibility that paleontological resources could be encountered in project area.

**PALEO-2** The project has been determined to have the potential to adversely affect significant paleontological resources and the project owner shall ensure the completion of the following actions/activities:

1. Provide a paleontological specialist who will have access to the site and linear rights-of-way at any time prior to and during ground disturbance.
2. The paleontological specialist will provide training to appropriate construction personnel at the site, will install avoidance measures (as necessary), and will be present during appropriate ground disturbing activities. The cultural specialist has the authority to halt construction at a location if a significant paleontological resource is found. If resources are discovered and the specialist is not present, the project owner will halt construction at that location and will contact the specialist immediately. The specialist will consult with the CPM and a decision will be made by the CPM within 24-hours as to how to proceed.
3. The project owner shall allow time for the paleontological specialist to protect significant resource finds, and pay all fees necessary to protect any significant resources.

**Verification:** Throughout construction, the project owner shall inform the CPM concerning any substantive activity related to items 1 through 3 above.

## **TRANSMISSION SYSTEM ENGINEERING, SAFETY AND RELIABILITY**

**TSE-1** The project owner shall ensure that the design, construction and operation of the proposed transmission facilities will conform to requirements listed below:

1. The power plant switchyard, outlet line and termination shall meet or exceed the electrical, mechanical, civil and structural requirements of CPUC General Order 95, CPUC Rule 21, Title 8, California Code of Regulations (CCR), Articles 35, 36 and 37 of the, "High Voltage Electric Safety Orders", Title 8 CCR, Sections 2700-2974, CPUC Decision 93-11-013, Federal Communications Commission Part 15, Public Resources Code 4292-4296, and National Electric Code (NEC).

**Verification:** Within 15 days after cessation of construction the project owner shall provide a statement to the CPM from the registered engineer in responsible charge

(signed and sealed) that the switchyard and transmission facilities conform to the above listed requirements.

## **WORKER AND FIRE SAFETY**

**WORKER SAFETY-1** The project owner must comply with all requirements in Title 8 of the California Code of Regulations, beginning with Part 450 (8 CCR Part 450 et seq).

**Verification:** The project owner shall submit to the CPM a letter attesting to compliance with the above and shall report any violations to the CPM.

## **AIR QUALITY**

**AQ-1** Prior to the commencement of project construction, the project owner shall prepare a Construction Fugitive Dust Mitigation Plan that will specifically identify fugitive dust mitigation measures that will be employed for the construction of the project and related facilities.

Protocol: Measures that should be addressed include the following:

- the identification of the employee parking area(s) and surface of the parking area(s);
- the frequency of watering of unpaved roads and disturbed areas;
- the application of chemical dust suppressants;
- the stabilization of storage piles and disturbed areas;
- the use of gravel in high traffic areas;
- the use of paved access aprons;
- the use of posted speed limit signs;
- the use of wheel washing areas prior to large trucks leaving the project site;
- the methods that will be used to clean tracked-out mud and dirt from the project site onto public roads; and
- for any transportation of borrowed fill material, the use of covers on vehicles, wetting of the material, and insuring appropriate freeboard of material in the vehicles.

**Verification:** The project owner shall submit to the CPM a letter attesting to compliance with the above and shall report any violations to the CPM.

**AQ-2** The project owner shall comply with the terms and conditions of the Authority to Construct and the Permit to Operate issued by the South Coast Air Quality Management District.

**Verification:** In the event that the air district finds the project to be out of compliance with the terms and conditions of the Authority to Construct, the project owner shall notify the CPM of the violation, and the measures taken to return to compliance, within five days.

**INDIGO ENERGY FACILITY  
EMERGENCY PERMIT EVALUATION PREPARATION TEAM  
CALIFORNIA ENERGY COMMISSION**

Kevin Kennedy..... Project Manager  
Mary Dyas.....Project Assistant  
Jeff Ogata..... Legal Counsel  
Christopher Meyer.....Compliance Manager  
Caprice Harper.....Cultural Resources  
Bob Anderson..... Paleontologic Resources  
Danielle Muir..... Biological Resources  
Steve Baker .....Facility Design  
Rick Tyler .....Hazardous Materials  
Joe Crea..... Soil and Water Resources  
Mark Hesters ..... Transmission Engineering  
Jim Bartridge .....Land Use, Noise, Transportation, Visual



## APPENDIX A

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### NOTICE OF INTENT TO ISSUE PERMIT PURSUANT TO AQMD RULES 212, 1710 AND 3006

This notice is to inform you that the South Coast Air Quality Management District (AQMD) has received and reviewed permit applications for Wildflower Energy LP, and intends to issue a facility permit 1) at the end of this 30-day public comment and review period; and 2) upon applicant complying with all remaining requirements described below.

The AQMD is the air pollution control agency for the four county region including Orange County and parts of Los Angeles, Riverside and San Bernardino Counties. Anyone wishing to install or modify equipment that could control or be a source of air pollution within this region must first obtain a permit from the AQMD. Under certain circumstances, before a permit is granted, a public notice, such as this, is prepared by the AQMD and distributed by the applicant.

The AQMD has evaluated the permit applications listed below for the following facility and determined that it meets or will meet all applicable AQMD rules and regulations based on the evaluation described below:

FACILITY: Wildflower Energy LP  
Indigo Energy Facility  
19<sup>th</sup> Ave, west of North Indian Ave  
Palm Springs, CA 92646

CONTACT: John Jones  
Vice President  
909 Fannin, Suite 700  
Houston, TX 77010

#### **AQMD APPLICATION NUMBERS**

383044	Turbine # 1
383045	Selective Catalytic Reduction and Oxidation catalysts # 1
383810	Turbine # 2
383808	Selective Catalytic Reduction and Oxidation catalysts # 2
383811	Turbine # 3
383809	Selective Catalytic Reduction and Oxidation catalysts # 3
383046	Ammonia tank
383161	Title V Application

## PROJECT DESCRIPTION

The project consists of three new turbine-generators, with a nominal rating of 45 megawatts each, to be installed at the Indigo Energy Facility in Palm Springs. The turbines will be equipped with Selective Catalytic Reduction (SCR) and oxidation catalyst, which are considered as Best Available Control Technology, to control NO<sub>x</sub>, CO and VOC emissions. Since the SCRs require ammonia to react with NO<sub>x</sub> in the exhaust gases, an ammonia storage tank is also being proposed.

### Projected Emissions

Upon achieving full operating load, the following emissions are expected from the operation of these turbines in conjunction with air pollution control systems:

Pollutant	Emissions, lbs/day
NO <sub>x</sub>	662
CO	455
VOC	20
PM <sub>10</sub>	221
SO <sub>x</sub>	48
NH <sub>3</sub>	219

Emissions from the proposed project contain pollutants that are considered toxic under AQMD Rule 1401-New Source Review of Toxic Air Contaminants. Therefore, a health risk assessment was performed for this project. The health risk assessment uses health protective assumptions in estimating actual risk to an individual person. Even assuming this health protective condition, the evaluation shows that the maximum individual cancer risk increase from the project is less than one-in-one-million. This level of estimated risk is within limits established for new or modified sources.

### PSD Evaluation

The Salton Sea Air Basin is in attainment of Nitrogen Dioxide (NO<sub>2</sub>), Sulfur Dioxide (SO<sub>2</sub>), and Carbon Monoxide (CO); therefore NO<sub>2</sub>, SO<sub>2</sub>, and CO emissions are subject to the AQMD's Prevention of Significant Deterioration (PSD) requirements.

The NO<sub>x</sub> emissions are above the significant emission level of 100 tons per year. The SO<sub>x</sub> and CO emissions are below the significant emission levels of 100 tons per year. This project is not subject to a PSD NO<sub>2</sub> incremental analysis because the predicted annual NO<sub>2</sub> impacts of 0.16 µg/m<sup>3</sup> are below the Federal PSD significance threshold of 1 µg/m<sup>3</sup>. Since the SO<sub>2</sub> emissions are below the significant levels, SO<sub>2</sub> incremental analysis was not required.

The project will not cause or contribute to violations of any state or federal ambient air quality standard for any attainment pollutants.

## THE FOLLOWING REQUIREMENTS WILL BE COMPLIED WITH PRIOR TO THE ISSUANCE OF FINAL PERMIT

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To fully comply with the all applicable rules and regulations, the applicant must complete the requirements:

- Wildflower Energy must provide emission offsets, or provide contractual agreement to provide emission offsets, for NO<sub>x</sub>, SO<sub>x</sub>, and PM<sub>10</sub> emissions. Emission offsets for SO<sub>x</sub> will be provided in the form of Emission Reduction Credits (ERCs). Emission offsets for NO<sub>x</sub> and PM<sub>10</sub> will either be in the form of ERCs or be purchased from the State-funded Emission Reduction Credit Bank, established pursuant to the Governor's Executive Order D-24-01. Some or all of the emission offsets for PM<sub>10</sub> may also be obtained from the AQMD's Priority Reserve pursuant to the AQMD's proposed amendments to Rule 1309.1, which is being presented to the AQMD Governing Board for adoption at the April 20, 2001 AQMD Board meeting.
- Wildflower Energy is conducting additional refined modeling for PSD visibility analysis. The modeling results will also be reviewed by the Federal Land Managers.

This facility is classified as a Federal Title V and Title IV (Acid Rain) facility and has filed an application for a Title V permit. Pursuant to AQMD Rule 3006, any person may request a proposed permit hearing on an application for a Title V significant permit revision by filing with the Executive Officer a complete Hearing Request Form (Form 500G) for a proposed hearing within 15 days of the date of publication of notice. On or before the date the request is filed, the person requesting a proposed permit hearing must also send by first class a copy of the request to the facility address and contact person listed above.

The proposed permit and other information are available for public review at the **Palm Springs Public Library**, 300 South Sunrise Way, Palm Springs, CA 92262. Additional information including the facility owner's compliance history submitted to the AQMD pursuant to Section 42336, or otherwise known to the AQMD, based on credible information, is available at the AQMD for public review by contacting Mr. Knut Beruldsen at Engineering and Compliance, South Coast Air Quality Management District, 21865 Copley Drive, Diamond Bar, CA 91865-4182, (909) 396-3136. Anyone wishing to comment on the air quality elements of these permits should submit the comments in writing within 30 days of the distribution/publication date. Submit written comments to the AQMD, attention Ms. Pang Mueller. If you are concerned primarily about zoning decisions and the process by which the facility has been sited in this location, contact your local city or county planning department or the California Energy Commission at (916) 653-0062.