

DOCKETED	
Docket Number:	09-AFC-03C
Project Title:	MARIPOSA ENERGY PROJECT - Compliance
TN #:	242238
Document Title:	CEC AUTHORIZATION LETTER FOR IMPLEMENTATION OF PHASE 2 FOR INSTALLATION OF TEMPORARY WATER TANKS
Description:	AUTHORIZATION LETTER FOR IMPLEMENTATION OF THE CEC-APPROVED 2015 POST-CERTIFICATION PETITION REGARDING INSTALLATION OF TEMPORARY WATER TANKS.
Filer:	Anwar Ali
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	3/9/2022 6:55:59 PM
Docketed Date:	3/10/2022



February 17, 2022

Mr. Wayne Forsyth
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Los Angeles, California 90071

**MARIPOSA ENERGY PROJECT (09-AFC-03C) – AUTHORIZATION FOR
IMPLEMENTATION OF THE CEC-APPROVED 2015 POST CERTIFICATION
PETITION**

Dear Mr. Forsyth:

On July 21, 2021, the California Energy Commission (CEC) received an inquiry from Mariposa Energy Project (MEP) regarding the installation of the backup water supply tanks that was previously approved by CEC in 2015.

BACKGROUND

On March 11, 2015, Mariposa Energy, LLC filed a post certification petition (TN 203835) to install temporary water storage tanks at the former Byron Power Cogeneration Plant site located immediately north of the MEP site.

On July 30, 2015, the CEC approved the petition (Order No. 15-0730-4) (TN 205635) and concluded that the proposed project modification complies with the requirements of the California Code of Regulations, Title 20, section 1769 (a), and would not result in any significant impacts to public health and safety, or to the environment.

Following the CEC's approval of the post-certification petition, MEP completed Phase I of the project, which included site grading and surface disturbance necessary for the installation of temporary water tanks. However, MEP did not implement Phase II of the project, which constituted the actual installation of the temporary tanks.

The current request for CEC's authorization for the installation of the temporary tanks was based upon potential California water supply limitations and the statement issued by the State Water Resources Control Board (SWRCB) on June 15, 2021, titled "Notice of Water Unavailability for Post-1914 Water Right Holders and Warning of Impending Water Unavailability for Pre-1914 and Riparian Claimants in the Sacramento-San Joaquin Delta Watershed." The SWRCB statement stated that "Current information indicates that water supply in the Sacramento-San Joaquin Delta watershed is insufficient to support lawful diversion under any post-1914 appropriative water right."

The above statement prompted MEP to evaluate its current water supply contingencies, which led to the decision for completion of the temporary water storage tanks installation. MEP has determined this decision is a viable contingency plan that would enable the facility to continue operating and providing electric power should the State of California issue any future drought-related Executive Order.

APPROVAL REQUIREMENTS

CEC is hereby authorizing MEP to proceed with the installation of temporary water tanks contingent upon compliance with the following requirements:

1. The authorization for the project under the Nationwide Permit (NWP) No. 39 (Verification No. SPK-2015-00463), issued by the United States Army Corps of Engineers (USACE) on September 10, 2015, expired on March 18, 2017. MEP must coordinate with the USACE to determine if a new nationwide permit or a revision of the existing one would be required under Section 404 of the Clean Water Act. MEP must then comply with the terms and conditions of the existing or revised NWP No. 39. If revision of the Biological Opinion (BO) issued by the United States Fish and Wildlife Service (USFWS) on August 28, 2015, is required, the final BO would be issued prior to completion of the NWP.
2. MEP must comply with the mandatory terms and conditions for the implementation of reasonable and prudent measures associated with the "incidental take" specified in the BO (Ref. No. 81420-2009-F-1306-R001). MEP must coordinate with the USFWS and the USACE to determine if a formal consultation under Section 7 of the Endangered Species Act between the two agencies is required for revision of the existing BO.
3. Revise the Stormwater Pollution Prevention Plan (SWPPP) developed in September 2015 in compliance with the National Pollutant Discharge Elimination System (NPDES). MEP must implement the revised SWPPP.

4. Comply with the specific requirements adopted in the CEC's staff Notice of Determination published on June 5, 2015 (TN 204912), including Attachment A. Biological Resources Conditions of Certification of the MEP Final Commission Decision (TN 60758) mentioned in Attachment A can be found here:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=09-AFC-03>.
5. Provide documentations to the Compliance Project Manager confirming that all the above requirements have been met. These documents would include whether a new or revised NWP is required and any associated documents from the USACE, and whether a new or revised BO under Section 7 is required and any associated documents from the USFWS.

Should the scope of the above noted activities change, please contact us as this may change our decision regarding this conditional approval of the project.

If you have any questions or concerns, please contact Anwar Ali, Compliance Project Manager, at (916) 698-7498, or via e-mail at anwar.ali@energy.ca.gov.

Sincerely,



Elizabeth Huber
Manager
Compliance Monitoring and Enforcement
Office
Siting, Transmission and Environmental
Protection Division