

Memorandum

Date : February 28, 2003

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To: John L. Geesman, Commissioner and Committee Presiding Member
Arthur H. Rosenfeld, Commissioner and Committee Associate Member

From: California Energy Commission - Matt Trask
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Subject: **PICO POWER PROJECT (02-AFC-3)
STATUS REPORT NO. 3**

Staff has prepared the following status report to inform the Committee of the progress of the case. Essentially, the project is in the same status as was reported in Status Report No. 2, issued on February 7, 2003. Below is a synopsis of the progress towards resolving the issues identified in the December 6 Issue Identification Report.

ISSUES

AIR QUALITY

As stated in the Issue Identification Report, the Bay Area Air Quality Management District has indicated that there will be a delay in releasing its Preliminary Determination of Compliance (PDOC), largely due to a severe staffing shortage at the District. The District is reportedly reviewing performance data of turbines similar to those proposed for the Pico project and working with US EPA Region 9 in San Francisco to determine the appropriate Best Available Control Technology (BACT) and commissioning levels for the project. Ken Lim of the District recently estimated that the Air District would release the PDOC between March 12 and March 26, depending on the time needed to analyze the performance data of similar turbines, and the time needed to complete the BAAQMD's internal review process.

The resolution of BACT determination is likely to be the key limiting factor affecting schedule in this case, especially as it relates to the time needed between the BAAQMD's release of the PDOC and its release of the Final Determination of Compliance (FDOC) for the project. Early reports from EPA Region 9 and the California Air Resources Board (CARB) indicate that there may be some disagreement between the Air District and those two agencies over the appropriate BACT levels for the Pico project. The time needed to resolve that disagreement has potential to significantly delay the release of the FDOC.

Energy Commission staff is working with the Air District, CARB and EPA to craft a process that may accelerate the resolution of the BACT issue, and thus enable the Air District to release the FDOC relatively quickly. We are currently arranging an interagency meeting among these parties to help facilitate this process; early feedback from the agencies concerning this approach has been positive. However, this issue still

has considerable potential to delay the issuance of the BAAQMD's FDOC, and staff cannot make its recommendation concerning approval or disapproval of the project until after the Air District releases its FDOC.

BIOLOGICAL RESOURCES

Staff is still working with the US Fish & Wildlife Service regarding the issue of potential biological resources impacts to the Bay checkered spot butterfly and several plant species created by nitrogen deposition on serpentine soils near the project site. The issue is coming to resolution, and Staff does not anticipate that this issue will delay the issuance of the Staff Assessment, nor issuance of a license for this project and commencement of construction of the plant following certification.

SOIL AND WATER RESOURCES

The Applicant responded to Staff's second round of data requests regarding information about any abandoned or contaminated water wells in the area to assess whether the pumping from the proposed industrial water well on the project site would create an impact. Staff and the Applicant are working closely with the Santa Clara Valley Water District to ensure the Staff Assessment adequately addresses the District's concerns about potential groundwater contamination associated with the proposed industrial well that would be drilled on the project site to provide a backup source of cooling water in the event of disruption in reclaimed water supply for cooling the plant. The Staff Assessment Soil & Water Resources analysis is currently under management review, and should be ready for publishing within a week to 10 days. Staff does not anticipate that this issue will create significant delay in the proceeding.

TRAFFIC & TRANSPORTATION

Staff has determined that especially during construction, project-related traffic could further exacerbate an unacceptable level of service on a nearby major traffic artery, which is already operating a Level of Service F. Staff worked with the City of Santa Clara's Public Works Department and other City departments to formulate an alternate route for project-related truck traffic to avoid a high-traffic nearby intersection, and eliminate any potentially significant traffic impact that the project would cause. Again, Staff feels this issue is not likely to delay the proceeding.

SCHEDULE

The Energy Commission's schedule for processing the Pico Power Project AFC is now totally dependent upon the Bay Area Air Quality Management District's release of the PDOC for the project. Staff anticipates it will be able to release the Staff Assessment for this project within three weeks of receipt of the PDOC. Staff proposes to complete any needed addendum to the Staff Assessment within 35 days after the SA is published, and likely less if all critical information items needed to complete any additional analysis have been received, such as the Air District's FDOC; otherwise the

addendum will be completed within 30 days from receipt of all additional critical information items. Staff anticipates that the prehearing and evidentiary hearings in the case could be held within a matter of days following release of the Addendum. Given the Air District's current estimate for releasing the PDOC, staff would predict that hearings for the case could be held sometime between late May and early July 2003. The late May estimate is based on quick resolution of the BACT issue and release of the FDOC by early May. Staff will update this schedule estimate in a separate progress report as soon as the Air District confirms the date for release of the PDOC.

cc: POS