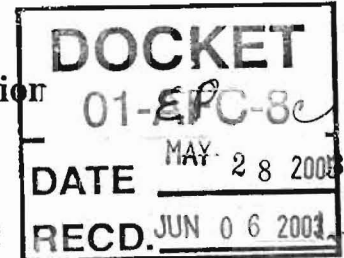



CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission



In the Matter of:)	Docket No. 01-EP-8C
)	Order No. 03-0528-02
Calpine, the Owners and Operators of)	ORDER APPROVING a Petition
GILROY CITY LM 6000 PHASE I)	to Install and operate a Zero Liquid
PROJECT)	Discharge Wastewater Treatment System

Calpine, the owner/operator of the Gilroy City LM 6000 Phase I Project, has requested a modification to allow the installation and operation of a Zero Liquid Discharge Wastewater Treatment System at the site. This action will provide for water conservation, a reduction in the use of fresh water for power plant cooling and a reduction in the demand placed on the South County Regional Wastewater Authority.

The Energy Commission approves the proposed amendment and the proposed modified conditions of certification for the Gilroy City LM 6000 Phase I Project in accordance with Title 20, Section 1769 (a) (3) of the California Code of Regulations.

COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

1. The modification will be beneficial to the project owner, the public and the South County Regional Wastewater Authority (SCRWA) in that it will allow water conservation, a reduction in the dependence on fresh water for cooling purposes, and a reduction in demand placed on the SCRWA.
2. This is a post-certification business decision. Terms of the contract with the SCRWA were not known until six months after certification of the Gilroy City LM 6000 Phase I Project. The agreement with SCRWA only allowed for two years use of their facilities.
3. There will be no new or additional unmitigated significant environmental impacts associated with the proposed modification.
4. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards.

CONCLUSION AND ORDER

As a result of this amendment the Energy Commission added new conditions, as well as made changes to some existing conditions in the permit issued to the Gilroy City LM 6000 Phase I Project.

The California Energy Commission hereby adopts the following changes to the Gilroy City LM 6000 Phase I Project Decision:

Changes to Biology Conditions of Certification:

Deleted text is shown in ~~striketrough~~ and new text is underlined.

BIO-11 To protect western pond turtles, utilizing Llagas Creek, from activities associated with construction of the proposed ZLD facility, the project owner shall install 450 feet of exclusionary fencing along the eastern edge of the road that traverses the area between the GEC and Llagas Creek, as shown in Attachment A.

Verification: At least 10 days prior to the start of ZLD construction, the project biologist shall submit to the CPM photo documentation that the exclusionary fencing has been installed.

BIO-12 To avoid impacts to the least Bell's vireo, the project owner shall avoid construction of the ZLD facility during the breeding/nesting season (May-July).

Verification : At least 30 days prior to the start of ZLD construction, the project owner shall submit to the CPM the schedule (including the exact date for the start of ground disturbing activities) for construction of the ZLD facility.

Changes to Cultural Conditions of Certification:

Deleted text is shown in ~~striketrough~~ and new text is underlined.

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 action/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 cultural resource is found or if a previously identified resource is affected in an unanticipated manner. 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 cultural 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.
4. The Cultural Resource Monitor(s) shall keep a log of daily monitoring activities and the daily logs shall be available for audit by the CPM.

Cul-3 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 qualified Native American monitor who will have access to the site and linear rights-of-way at any time prior to and during ground disturbance.
2. The Native American monitor has the authority to halt construction at a location if a significant cultural resource is found. ~~If resources are discovered and the Native American monitor is not present, the project owner will halt construction at that location and will contact the Native American monitor immediately.~~ The Native American monitor 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 informs the CPM as to how and where the resources were curated, as appropriate.

Cul-4 Prior to ground disturbance for ~~excavation of the ZLD system, the proposed gas line project,~~ the project owner shall ensure that the cultural resource specialist (CRS) prepares a Department of Parks and Recreation (DPR) 523 form and evaluation of deposits at the GEC site. If the CPM determines the deposits to be eligible to the California Register of Historic Resources (CRHR), then the CRS shall prepare a treatment plan including a thorough statement of proposed mitigation for this potentially eligible site and a focused historic research design and testing plan relevant to the constituents already identified in the multiple loci of the GEC site. The treatment plan shall provide recommendations for avoidance. In the event avoidance is not possible, the treatment plan shall provide recommendations for mitigation of impacts to Native American burials, should they be discovered. The test trench and a All ground disturbing activities shall be monitored, full time, by the CRS or the Cultural Resource Monitor(s) and Native American monitor(s).

Verification: At least 10 days prior to start of ground disturbance for the ZLD system, or as agreed by the CPM, the project owner shall provide a DPR 523 and evaluation for review and approval. If the CPM has determined the site to be eligible to the CRHR, then prior to ground disturbance for the ZLD system, the project owner shall

provide a treatment plan including a focused research design to the CPM for review and ~~written~~ approval.

Changes to Soil & Water Conditions of Certification:

Deleted text is shown in ~~strike through~~ and new text is underlined.

SOIL&WATER-1: Prior to ~~ground disturbance~~ beginning any site mobilization activities associated with the ZLD project modification, the project owner shall obtain CPM approval of a Storm Water Pollution Prevention Plans (SWPPP) as required under the NPDES General Storm Water Construction Activity Permit and the General Storm Water Industrial Activity Permit for the project.

Verification: No later than 30 days prior to the start of site mobilization activities associated with the ZLD modification, and 30 days prior to operation of the ZLD system the project owner will shall submit a copy copies of the new or revised Storm Water Pollution Prevention Plans required under the General NPDES Permits for both construction and operation phases of the project to the CPM for review and approval. The SWPPPs shall include copies of any the revised plans as accepted by the RWQCB. The SWPPPs shall be provided to Santa Clara County for review and comment. Approval of the SWPPP by the CPM for construction must be received prior to site mobilization for the ZLD modification, and approval of the SWPPP by the CPM must be received prior to operation of the ZLD system.

SOIL&WATER-2: No later than 30 days prior to the start of site mobilization activities associated with the ZLD modification ~~ground disturbance~~, the project owner shall obtain CPM approval of ~~an~~ for an Erosion Prevention and Sedimentation Control Plan that addresses all elements of the project.

Verification: No later than 30 days prior to the start of any site mobilization for the ZLD modification, the project owner shall submit an The Erosion Control and Storm Water Management Sedimentation Control Plan for the project that includes all the ZLD modification shall be submitted to the CPM for review and approval. This plan should include any revegetation efforts to be undertaken.

SOIL & WATER-8: Prior to operation of the ZLD system, the project owner shall submit to the CPM a copy of a valid permit or agreement from the appropriate approving agency for wastewater discharge during ZLD system upset or maintenance periods. If this permit or agreement cannot be obtained, the project owner must provide a CPM approved backup plan for wastewater discharge during ZLD system upset or maintenance periods. Without such an approved plan, the facility shall shut down during system upset or maintenance.

Verification: The CPM must receive a copy of the final permit or agreement for handling wastewater during ZLD periods of upset or maintenance, or approve a backup plan no later than thirty days prior to operation of the ZLD system

Changes to Waste Management Conditions of Certification:

Deleted text is shown in ~~strike through~~ and new text is underlined.

WASTE-4 The project owner shall determine if the ZLD filter cake is hazardous or non-hazardous pursuant to sections 66261.3 and 66262.11 of Title 22 of the California Code of Regulations (CCR). Testing of representative samples of the cake shall incorporate the methods set forth in Chapter 11, Division 4.5, Title 22 CCR. If deemed non-hazardous, then future sampling and testing is not required unless there is a substantial change in the wastewater treatment process or due to cross-contamination between materials and/or processes. The project owner shall manage the filter cake product appropriately as a designated waste if the cake is determined to be a non-hazardous waste, unless determined otherwise.

Verification: No later than 30 days after the initial operation of the ZLD in producing the filter cake, the project owner shall notify the CPM of the test results and the planned disposal method.

IT IS SO ORDERED.

Dated: May 28, 2003

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION



WILLIAM J. KEESE
Chairman