

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

May 26, 2005

Mike Argentine  
Manager, Project Development  
Calpine Corporation  
4160 Dublin Blvd.  
Dublin, CA 94568

<b>DOCKET</b> 99-AFC-7C
<b>DATE</b> MAY 26 2005
<b>RECD.</b> MAY 31 2005

**SUBJECT: PASTORIA ENERGY FACILITY (99-AFC-7C)**  
**APPROVAL OF CONVERSION OF ACREAGE TO PERMANENT**  
**IMPACTS, AND APPROVAL OF BIO-11 VERIFICATION CHANGE**

Dear Mr. Argentine:

The California Energy Commission (Energy Commission) staff has considered and approved Calpine's request (enclosed) to permanently maintain 1.022 acres, presently occupied by the Pastoria Energy Facility's warehouse, for the lifespan of the project. In June 2001, this 1.022 acre site was considered as "temporary" for the purpose of determining biological resources habitat compensation requirements as a component of the expansion of the construction laydown yard. Calpine has an excess of mitigation acreage through the Center for Natural Lands Management to accommodate a conversion from temporary to permanent impacts, and no changes are required to the existing Conditions of Certification to accommodate this minor conversion. Therefore, Energy Commission staff approves this change and the following revision to the compliance verification for BIO-11 (new text is underlined):

**HABITAT COMPENSATION**

**BIO-11** To compensate for temporary and permanent impacts to sensitive species habitat, the project owner will provide at least \$294,240 to the Center for Natural Lands Management.

**Verification:** To account for inflation and other anticipated changes in habitat compensation costs, the project owner will consult the Center for Natural Lands Management (Brenda Pace, 541-330-5533) no less than 90 days prior to the start of any project related ground disturbance, and CNLM will identify the final cost per acre and total compensation amount. Once the final habitat compensation amount has been determined and no less than 60 days prior to the start of any project related ground disturbance activities, the project owner will provide written verification to the CEC CPM that all habitat compensation funds (including the endowment) have been provided to CNLM.

In May 2001, Calpine provided verification that \$375,000 had been provided to CNLM to purchase 275 acres of compensation habitat and establish a perpetual

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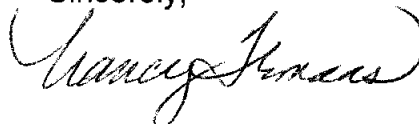
endowment for the acreage as part of the CNLM Lokern Preserve. This acreage compensation is more (275 acres – 245.2 acres = +29.8 acres) than the minimum compensation acreage (245.2 acres) required of the Pastoria project. The additional habitat compensation, 16.5 acres (15 acres x 1.1:1 compensation ratio), required for the additional laydown acreage addressed by the June 2001 project amendment will be deducted from the additional 29.8 acres of compensation already provided, leaving a remainder of +13.3 acres.

Any subsequent changes to habitat compensation acreage shall be approved by the CPM, and the project owner shall submit documentation to the CPM that the Center for Natural Lands Management has accounted for all approved changes.

Within 90 days after completion of project construction, the project owner shall provide aerial photographs to the CPM that were taken after construction. The project owner shall also provide an analysis of the amount of any additional habitat disturbance than that identified in this staff assessment. The CPM, in consultation with CNLM, will notify the project owner of any additional funds required to compensate for any additional habitat disturbances at the adjusted market value at the time of construction to acquire and manage habitat.

If you have any questions, please call me at (916) 654-3864, or by e-mail at [ntronaas@energy.state.ca.us](mailto:ntronaas@energy.state.ca.us).

Sincerely,



Nancy Tronaas  
Compliance Project Manager  
Systems Assessment and Facilities  
Siting Division

Enclosure

cc: Susan Jones, U.S. Fish & Wildlife Service  
Ed Merrihew, Calpine Corporation  
Barbara McBride, Calpine Corporation  
Rick York, Energy Commission  
Peter St. Clair, Center for Natural Lands Management

**Nancy Tronaas - Pastoria: warehouse ac.**

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**From:** Edward Merrihew <ed@calpine.com>  
**To:** "'ntronaas@energy.state.ca.us'" <ntronaas@energy.state.ca.us>  
**Date:** 4/21/2005 10:41 AM  
**Subject:** Pastoria: warehouse ac.  
**CC:** Michael Argentine <margentine@calpine.com>, Barbara McBride <bmcbride@calpine.com>

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Nancy: please accept this e-mail requesting concurrence of the following action in order that Calpine- PEF can permanently maintain the 1.022 acres , presently occupied by the warehouse, as part of the PEF permanent facility.

**BACKGROUND:**

In June 2001 PEF requested and was granted approval by the CEC an additional 15 acres for expansion of the laydown area. The 15 ac. was considered as temporary impacts and was compensated for accordingly at a 1.1 : 1 ratio which resulted in 16.5 acres of compensation to the CNLM. As you are aware there was sufficient excess acres purchased so that the 16.5 ac. were credited and no additional purchase was necessary. The 1.022 acres currently occupied by the warehouse was part of the 15 ac. expansion and has already been compensated for as temporary impacts.

**REQUEST:**

Calpine-PEF requests that this 1.022 ac. be allowed to become permanent to the PEF facility and as such will compensate at the 3:1 ratio for permanent impacts.

This compensation would normally require additional habitat compensation funds to the Center for Natural Lands Management (CNLM) to add to the current endowment. However, I spoke to Peter St. Claire (619-683-9352) of the CNLM and he assured me that there is still an excess of acreage to cover this additional acreage change from temporary to permanent for the 1.022 ac.

Since the 1.022 ac. was part of the 15 ac. laydown expansion and was covered under the temporary impacts ratio of 1.1 : 1 ( 1.022 X 1.1 = 1.124 ac.). Only the difference between the temporary impact ratio and the permanent ratio of 3: 1 applies ( 1.022 X 3 = 3.066 ac. ) which would be: 3.066ac - 1.124 ac = 1.942 ac. to be accounted as additional acreage in the CNLM, already purchased by Calpine.

**ACTION REQUIRED:**

In reviewing **BIO-11** it appears the **Condition** and the **Verification** have either already been met or will be at the end of construction. In the case of compensation payment to CNLM: This payment has already been made in excess of what is required and this "transfer" from temporary to permanent status doesn't change the Condition. Regarding the Verification: within 90 days of completion of construction an aerial photo will be taken to determine if there are additional acreages impacted. The transfer of 1.022 ac. from temporary to permanent status does not seem to effect the Condition or the Verification. Therefore, I am proposing a letter from Calpine-PEF to the CEC with a c.c. to Peter St. Claire at the CNLM requesting CEC concurrence for the "transfer" of an additional 3.066 ac ( 1.124 already provided) into the PEF account, if you will, and confirmation from the CNLM when the paper work is complete. If I have mangled the calculations please forgive, but I believe the context of this memo is accurate based on my reading of past proceedings and conversations with the CEC, URS,CNLM and PEF staff...thanks for your thoughts Nancy....ED

Ed Merrihew

