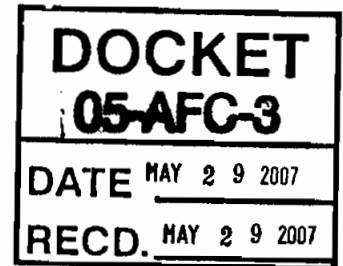


May 29, 2007

Ms. Raquel Rodriguez
California Energy Commission
Docket Unit, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512




Re: **VALLE DEL SOL ENERGY, LLC'S**
COMMENTS ON THE PRELIMINARY STAFF ASSESSMENT
DOCKET NO. (05-AFC-3)

Dear Ms. Rodriguez:

Enclosed for filing with the California Energy Commission are one original and 12 (Twelve) copies of the **VALLE DEL SOL ENERGY, LLC'S COMMENTS ON THE PRELIMINARY STAFF ASSESSMENT**, for the Sun Valley Energy Project (05-AFC-3).

Sincerely,


Marguerite Cosens

Scott A. Galati
GALATI & BLEK LLP
555 Capitol Mall
Suite 600
Sacramento, CA 95814
(916) 441-6575

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the Sun
Valley Energy Project

DOCKET NO. 05-AFC-3

**VALLE DEL SOL ENERGY, LLC'S
COMMENTS ON THE PRELIMINARY
STAFF ASSESSMENT**

Valle del Sol Energy, LLC (VSE), a wholly-owned subsidiary of Edison Mission Energy (EME) hereby submits its comments on the Preliminary Staff Assessment (PSA). According to the Notice of Publication of the PSA, comments are due on June 16, 2007. Since a Public Workshop on the PSA is scheduled for May 31, 2007, EME has prepared the following comments to provide Staff input in advance of the workshop. Our goal is to engage in productive discussions with Staff and, where possible, provide clarification and achieve resolution of issues. Therefore, EME reserves the right to augment these comments prior to the close of public comment period on June 16, 2007.

Additions are shown in ***bold italics*** and deletions are shown in ~~strikethrough~~.

PROJECT DESCRIPTION

Page 3-2, paragraph 1, line 5 – refers to Romoland as an “unincorporated city.” EME believes a more accurate description would be “a community in an unincorporated portion of Riverside County”

Page 3-2, paragraph 1 – This paragraph on local land use mentions two elementary schools to the south and two additional elementary schools to the northwest and northeast. Later in the paragraph, there is a reference to the three schools within a mile being depicted on Figure 3. All four schools are depicted on the figure; three within a mile.

Page 3-3, paragraph 1, line 2 – This paragraph says that the natural gas line will be “running along Matthews Road.” It would be more accurate to say that it would parallel Matthews Road alongside the BNSF Railroad (which lies between the project parcel and Matthews Road).

AIR QUALITY

Page 4.1-9, paragraph 1, last two sentences – “On February 14, 2007, the U.S. EPA published their intent to reclassify the SCAQMD to attainment for the federal CO ambient air quality standards. The U.S. EPA process may take 30 days, or more, to finalize that reclassification.” The U.S. EPA published their final notice of CO redesignation for the South Coast Air Basin in the Federal Register dated May 11, 2007. Redesignation becomes effective on June 11, 2007.

Page 4.1-22, first paragraph – Staff refers to a diesel generator. The SVEP is not proposing a diesel generator.

Pages 4.1-71 and 72, proposed Condition of Certification AQ-SC9 - Please remove the reference to the HRSG and auxiliary boiler.

Pages 4.1-73 and 74, proposed Condition of Certification AQ-1 - The VOC emission rate should be 1,106 lbs/month rather than the 887 lb/month as listed in the table. Further, the VOC emissions during commissioning should be changed from 904 lbs/month to 1,114 lbs/month.

Page 4.1-75, proposed Condition of Certification AQ-4 - ROG should be replaced with VOC.

Pages 4.1-75, 76 and 77, proposed Condition of Certification AQ-7 - The testing frequency for should be set to every three year to be consistent with SCAQMD requirements. SVEP proposes the following language change:

“The project owner shall conduct an initial source test and every three years thereafter for NO_x, CO, VOC, PM₁₀ and NH₃ in accordance with the following requirements....”

BIOLOGICAL RESOURCES

Pages 4.2-20 and 21, proposed Condition of Certification BIO-4 - Staff proposed Condition of Certification **BIO-4** authorizes the Designated Biologist and Biological Monitor to halt construction. While VSE does not object to that requirement, VSE requests the condition be modified to clarify that the halting of activities should only be authorized if there would be an unauthorized adverse impact to biological resources if

the activities were continued. VSE believes that is Staff's intent and requests the following modification to avoid ambiguity during compliance.

BIO-4 The project owner's Construction/Operation Manager shall act on the advice of the Designated Biologist and Biological Monitor(s) to ensure conformance with the biological resources Conditions of Certification.

If required by the Designated Biologist and Biological Monitor(s) ***in order to avoid an unauthorized adverse impact to biological resources,*** the project owner's Construction/Operation Manager shall halt all site mobilization, ground disturbance, grading, construction, and operation activities in areas specified by the Designated Biologist.

Page 4.2-22, proposed Condition of Certification BIO-6 – Staff's proposed Condition of Certification **BIO-6** is a standard condition requiring preparation of a BRMIMP. It lists several items that must be included in the BRMIMP even though some may not be applicable to the SVEP. Therefore VSE requests the following minor modification to clarify that only those items that are necessary for the SVEP need be included in the BRMIMP.

BIO-6 The project owner shall develop a BRMIMP and submit two copies of the proposed BRMIMP to the CPM (for review and approval) and to CDFG and USFWS (for review and comment) and shall implement the measures identified in the approved BRMIMP.

The BRMIMP shall be prepared in consultation with the Designated Biologist and shall identify ***all of the following that are required and applicable to construction and operation of the SVEP:***

Page 4.2-24 and 25, proposed Condition of Certification BIO-9 – Staff's proposed Condition of Certification **BIO-9**, which requires compliance with the U.S. Army Corps of Engineers Nationwide Permit 12 for utility line activities. Nationwide Permit 12 is not required for development of the SVEP and therefore VSE requests it be deleted.

Pages 4.2-26 and 27, proposed Condition of Certification BIO-13 – Staff's proposed Condition of Certification **BIO-13** in order to capture the requirements outline in the Advisory Conditional Use Permit from Riverside County. In order to avoid any conflict between landscaping requirements VSE proposed the following modification to item 2 in the condition:

2. Where possible ***and not in conflict with Condition of Certification VIS-5,*** landscaping shall be accomplished through the use of vegetation native to the project site.

CULTURAL RESOURCES

Page 4.3-30, Proposed Condition of Certification CUL-6 - The Condition refers to “culturally sterile soil” (...“*until the depth of culturally sterile soil is reached.*”)

Technically, this term would refer to any soil that does not contain archaeological or other cultural deposits. We suggest clarifying this as follows:

CUL-6 The project owner shall ensure that the CRS, alternate CRS, or CRMs and Native American monitors (if needed) shall monitor **construction activities that may cause ground disturbance, including** pre-construction site mobilization and; ~~construction ground disturbance;~~ construction grading, boring, and trenching; ~~and construction~~ full-time, to ensure there are no impacts to undiscovered cultural resources; ~~under the following circumstances:~~ **Monitoring shall take place** during the removal of the uppermost soil layers at the plant site ~~until the depth of culturally sterile soil is reached, as determined by the CRS;~~ for the full width and length of excavations for the natural gas pipeline and the non-reclaimable wastewater pipeline; for the full width and length of improvements to Junipero and Rouse Road; and for the installation of the ~~off-~~**on-site** monopole supports of the overhead transmission line. In the event that the CRS determines that full-time monitoring is not necessary in certain locations, a letter or e-mail providing a detailed justification for the decision to reduce the level of monitoring shall be provided to the CPM for review and approval prior to any reduction in monitoring.

Page 4.3-31, Verification for Proposed Condition of Certification CUL-6 – The verification clause for **CUL-6** requires that the CRS communicate with the CPM “*Each day that no discoveries are made...*” It is customary to notify the CPM when discoveries are made and a requirement to notify daily is unnecessary and infeasible. The CRMs will keep daily monitoring logs and the daily monitoring forms will be provided to the CPM on request. In addition, these logs are summarized in the monthly reports.

The verification clause for **CUL-6** also requires that “*Copies of daily logs shall be retained by the project owner on-site during construction.*” These daily logs are often electronically transmitted weekly or monthly to by the CRMs to the CRS and for this reason are generally resident on the CRMs’ and CRS’s computers. They can easily and quickly be provided to the CPM or project owner in this form. VSE suggests deleting this requirement.

The following are suggested revisions to the **CUL-6** verification:

Verification: At least 30 days prior to the start of pre-construction site mobilization; construction ground disturbance; or construction grading, boring, ~~and or~~ trenching; ~~and construction~~, the CPM will provide to the CRS reproducible copies of forms to be used as daily monitoring logs. ~~Each day that no~~

~~discoveries are made, the CRS will provide a statement that “no cultural resources over 50 years of age were discovered” to the CPM as an email or in some other form acceptable to the CPM, except during suspension of construction or when construction is concluded. While monitoring is on-going, the project owner shall include in each MCR a copy of the monthly summary report of cultural resources-related monitoring prepared by the CRS. Copies of daily logs shall be retained by the **CRS and project owner and provided to the CPM on request.** project owner on-site during construction.~~

Page 4.3-31, Proposed Condition of Certification CUL-7, Native American Monitor

The requirement that the project owner arrange the monitoring participation of all interested Native American groups is burdensome and impractical. Applicant suggests the following wording changes:

CUL-7 Prior to the initiation of pre-construction site mobilization, the project owner shall identify one or more Native American who can potentially monitor construction. Preference in selecting potential monitors shall be given to Native Americans with traditional ties to the project area. If efforts to obtain the services of Native American monitors are unsuccessful, the project owner shall immediately inform the CPM. ~~If more than one group of Native Americans wish to provide a monitor, then Native American monitoring shall be arranged in a manner (part-time or rotating, etc.) that allows participation by all concerned Native American groups.~~ If Native American artifacts are discovered, the project owner shall engage one or more Native American monitors as soon as possible to monitor ground-disturbing activities in the area where the artifacts were found. Native American monitoring shall continue until culturally sterile soils, as determined by the CRS, are encountered in the areas where Native American artifacts were found and during any data recordation or recovery of Native American cultural materials.

Page 4.3-32, Proposed Condition of Certification CUL-8 – Staff’s proposed Condition of Certification grants authority to the CRS, alternate CRS, and the CRMs to halt construction in the event unknown cultural resources sites or materials are encountered, or if known resources may be impacted in a previously unanticipated manner. While VSE supports the grant of that authority, VSE requests the decision to halt construction should also be in accordance with the CRMMP. Therefore VSE requests the following modification:

CUL-8The project owner shall grant authority to halt construction to the CRS, alternate CRS, and the CRMs in the event previously unknown cultural resources sites or materials are encountered, or if known resources may be impacted in a previously unanticipated manner **and in accordance with the CRMMP**. Redirection of ground-disturbing activities shall be accomplished under the direction of the construction supervisor in consultation with the CRS.

Page 4.3-33, Proposed Condition of Certification CUL-9 – VSE requests revision or deletion of proposed condition **CUL-9**. Fill for construction is normally commercially available and is purchased for the project. Borrow sites are therefore not usually part of the project description and have undergone separate environmental reviews to obtain building permits or other authorizations. The same is also generally true of fill sites, although it should be pointed out that adding fill to an archaeological site, which is mostly underground, very often would not cause an adverse impact to the site. Under certain conditions, in fact, fill is placed on top of archaeological sites for the purposes of preserving them. Any borrow or fill sites that become part of the project description would thus be subject to a license amendment and surveys would be required and the Conditions of Certification would apply and would be protective of significant cultural resources, as with any additional construction laydown or construction parking areas identified during the construction period. Commercial borrow or fill sites would not be included in the project description, would have obtained CEQA clearance separately, and would not be subject to the Conditions of Certification.

HAZARDOUS MATERIALS

Page 4.4.-15, Last paragraph, second to last sentence - The conclusions should be restated to be consistent with Condition of Certification **HAZ-2**. VSE requests the following modification:

“In addition, staff’s proposed Conditions of Certification require Riverside County Environmental Health Department’s and staff’s review and approval of the ~~RMP~~ **Business Plan**-prior to delivery of any hazardous material to the facility.”

Page 4.4-16, Proposed Condition of Certification HAZ-2 - This condition requires VSE to obtain comments on the Hazardous Materials Business Plan and Risk Management Plan from the CUPA and EPA before finalizing the document. VSE, however, has no control over the responsiveness of the EPA to complete this task or their willingness to do so. VSE therefore requests that Staff delete this requirement, as follows:

HAZ-2 The project owner shall concurrently provide a Business Plan and a Risk Management Plan (RMP) to the Riverside County Environmental Health Department – the Certified Unified Program Authority (CUPA), the Riverside County Fire Department, Health Hazardous Materials Division and the CPM for review at the time the RMP is first submitted to the U.S. Environmental Protection Agency (EPA). After receiving comments from the CUPA, ~~the EPA,~~ and the CPM, the project owner shall reflect all recommendations in the final documents. Copies of the final Business Plan and RMP shall then be provided to the CUPA and EPA for information and to the CPM for approval.

VSE also requests a shorter verification timeline submittal of the final Hazardous Materials Business Plan and Risk Management Plan, given review by the Certified Unified Program Authority and the Environmental Protection Agency, as follows:

Verification: At least ~~60~~ **30** days prior to receiving any hazardous material on the site for commissioning or operations, the project owner shall provide a copy of a final Business Plan to the CPM for approval. At least sixty (~~60~~ **30**) days prior to delivery of aqueous ammonia to the site, the project owner shall provide the final RMP to the CUPA for information and to the CPM for approval.

Page 4.4-17, proposed Condition of Certification HAZ-7 – Staff’s proposed Condition of Certification **HAZ-7** specifies a route for delivering any hazardous materials that needs to be modified to include the route identified in the AFC for delivery of hazardous materials during operation as follows:

HAZ-7 The project owner shall require all vendors delivering any hazardous material to the site to use only the route approved by the CPM (**during construction** from Interstation-215 to the facility along Ethanac Road, to Matthews Road, to the Project **site and during operations and during operation from Interstate-215 to the facility along Ethanac Road, to Matthews Road, to Menifee Road, to Rouse Road, to Junipero Road and to the Project Site**). The project owner shall obtain approval of the CPM if an alternate route is desired.

LAND USE

Page 4.5-8, LAND USE Table 2 - The PSA states, “*Figure 2.1-1 in the AFC does not show any parking spaces. Staff’s proposed condition of certification **LAND-1** would require the project owner to provide the specified number of parking spaces.*” Figure 2.1-1 in the AFC shows 7 parking spaces in front of the Control/Administration/ Switchgear building. This is more than the required six spaces.

Page 4.5-9 and -10, Condition LAND-1 – The SVEP is designed to meet all of the County standards listed so that Condition LAND-1 is not necessary. VSE requests that Staff delete this condition.

NOISE AND VIBRATION

Page 4.6-15, Compliance With LORS - Staff cites a Riverside County Noise Ordinance restricting exterior residential noise levels during the nighttime to 45 dBA 10-minute L_{eq} . The Riverside County Planning Department's advisory Conditional Use Permit (CUP), however, states that the project shall not cause noise levels in residential areas above 65 dBA CNEL (equivalent to 58 dBA L_{eq}) for building exteriors and 45 dBA CNEL (equivalent to 39 dBA L_{eq}) for building interiors. This standard is consistent with the noise standard set in the Environmental Impact Report for the Menifee Valley Ranch development (which is the nearest residential receptor). Because the CNEL standard includes adjustments for the sensitivity of people to noise at night, it is the equivalent of the County standard that Staff cites in the PSA. VSE requests that Staff apply this standard because the County has cited this standard specifically in its advisory CUP as the standard most applicable for this project.

Page 4.6-15, CEQA Impacts: Staff states that increases in ambient noise between 5 and 10 dBA may or may not be significant and adverse, depending on the circumstances. Staff believes that SVEP will increase ambient noise by 10 dBA and indicates that this should be considered an adverse impact to nighttime noise in a residential area. Staff chooses the quietest nighttime four-hour L_{90} average as a measure of ambient noise. Use of a nighttime standard for the SVEP, however, would unfairly penalize the project which, as a peaking power plant, would be unlikely to operate at night and least likely to operate during the quietest nighttime hours when the demand for electricity is the lowest and when people are most sensitive to noise. In addition, unlike most power plants, for which operational noise is relatively constant regardless of load, noise from SVEP will depend on how many of the SVEP's five turbines are in operation at a given time. Staff's analysis should therefore be based on the County's noise standard, as indicated in the advisory CUP.

Page 4.6-15, Proposed Condition of Certification NOISE-2- Please replace the phrase "all feasible measures" with "reasonable measures" in the fourth bullet. A complaint does not necessarily indicate a significant impact requiring the use all feasible measures.

Page 4.6-17, Proposed Condition of Certification NOISE-4 - In light of the above discussion, VSE requests a modification to Staff's proposed Condition NOISE-4 that establishes the project's noise standard at the Menifee Valley Ranch residential areas as 58 dBA (65 dBA CNEL). In addition, we request a change in the wording of the condition such that the noise standard applies to noise attributable to the project as modeled from near-field measurements during operation. This change is necessary

because the Applicant can control noise only from the SVEP itself and not other sources of noise. For example, a new noise source could be developed in the vicinity of one of the sensitive receptors after the AFC was filed and before final noise testing takes place after the plant begins operation. With the condition worded in this way, the applicable noise standard could be a “moving target” and this is inconsistent with CEQA. Under CEQA, the project environmental baseline consists of existing conditions at the time the application is filed and a project under CEQA review cannot be held liable for changing conditions after applying for certification. In previous siting cases, Conditions of Certification that have stipulated noise limits have used the “noise attributable to the plant operation” wording.

NOISE-4 The project design and implementation shall include appropriate noise mitigation measures adequate to ensure that operation of the project will not cause noise levels **attributable** due to plant operation ~~plus ambient, during the four quietest consecutive hours of the nighttime to exceed an average of 58.45~~ dBA L_{eq} measured near the western edge of Menifee Valley Ranch, east of Menifee Road.

B. If the results from the noise survey indicate that the power plant average noise level (L_{eq}) at the affected receptor site exceeds ~~the above value 58 dBA during the four quietest consecutive hours of the nighttime,~~ mitigation measures shall be implemented to reduce noise to a level of compliance with this limit.

PUBLIC HEALTH

Page 4.7-14, Proposed Condition of Certification Public Health-1 – VSE requests the following modifications to the condition:

Public Health-1 The project owner shall develop and implement a Cooling Water Management Plan to ensure that ~~the potential for bacterial growth in cooling water is controlled~~ is **controlled** ~~is kept to a minimum.~~ The Plan shall be consistent with either Staff’s “Cooling Water Management Program Guidelines” or with the Cooling Technology Institute’s “Best Practices for Control of Legionella” guidelines.

SOIL AND WATER RESOURCES

Page 4.9-22, second paragraph – The statement “*The SVEP’s potable water demand, excluding fire suppression, is estimated to average 3.0 gpm or less than two AFY*” is not correct. As stated on page 7-1 of the AFC, the average project potable water usage would be 3.0 gpm, which is less than five AFY (AFY = gpm*1.612; in this case, $3.0*1.612 = 4.836$ AFY).

Page 4.9-26, proposed Condition of Certification Soil & Water 2 - This condition requires a grading permit from the County. Normally the CBO has jurisdiction over issuance of grading permit and will coordinate with the County. Therefore VSE asks any reference to the grading permit be deleted from this condition.

Page 4.9-27 and 28, proposed Condition of Certification Soil & Water 5 – Staff proposed Condition of Certification requires design drawings and a Title 22 Engineer’s Report to be submitted prior to site mobilization. VSE requests that the timing outlined in the Verification be modified such that design drawings and a Title 22 Engineer’s Report be submitted “prior to the beginning of construction of any permanent water supply and distribution system” instead of “prior to site mobilization” as follows.

Verification: Prior to beginning ~~any site mobilization activities~~ ***of construction of any permanent water supply and distribution system,...***

Page 4.9-28, proposed Condition of Certification Soil & Water-7 - Staff’s request to impose a limit of 2 AFY of potable water is not based on any analysis of impacts or any applicable LORS. There is no state or local standard that would authorize the Staff to cap the use of potable water for potable and sanitary purposes. The AFC’s reference to 5 AFY of potable water was an estimate of anticipated average annual use, not a proposed cap on consumption. As noted above, Staff has misconstrued or miscalculated this estimate as 2 AFY. VSE therefore proposes the following change to proposed Condition of Certification Soil & Water-7:

Soil & Water 7: The project owner shall use tertiary treated recycled water supplied from EMWD’s Recycled Water System as its only source of cooling, process and landscape irrigation water. ~~The project owner shall use potable water supplied from EMWD and its annual usage (excluding fire suppression) shall not exceed two acre-feet.~~ Prior to the use of recycled ~~or potable water for~~ commercial operation, the project owner shall install and maintain metering devices as part of the water supply and distribution system to monitor and record in gallons per day the total volume(s) of water supplied to the SVEP from those water sources. Those metering devices shall be operational for the life of the project and must be able to record the volume from each source separately.

TRAFFIC AND TRANSPORTATION

Page 4.10-17 and 18, proposed Condition of Certification TRANS-5 – Staff proposed Condition of Certification **TRANS-5** requires repair of roads that are damaged by construction activities for the SVEP. The conditions lists McLaughlin Road but the SVEP construction traffic will not travel on McLaughlin Road and therefore VSE asks it be deleted from the Verification portion of the Condition.

VISUAL RESOURCES

Page 4.12-4, Power Plant – Staff refers to “combustion turbine silencers” which are actually compressor bleed air vents.

Page 4.12-18, Proposed Condition of Certification VIS-1 – This condition requires the use of fabric, wooden slat, or other screening for the construction perimeter fence line. The condition requires “anti-graffiti coatings on fences where applicable.” Such a provision may prove unnecessarily expensive for a temporary application such as construction fencing and VSE suggests deleting this requirement.

Page 4.12-18, Proposed Condition of Certification VIS-2 – VSE requests the following modifications for clarity:

- VIS-2** The project owner shall ensure that lighting for construction of the power plant is used in a manner that minimizes potential night lighting impacts, as follows:
- A. All lighting shall be of minimum necessary brightness consistent with worker safety and security;
 - B. All fixed position lighting shall be shielded/hooded, and directed downward and toward the area to be illuminated to prevent direct illumination of the night sky and direct light trespass (direct light extending *into public viewing areas*); ~~outside the boundaries of the power plant site or the site of construction of ancillary facilities, including any security related boundaries~~);
 - C. Low pressure sodium vapor lighting or overhead high pressure sodium vapor lighting with shields or cutoff luminaries shall be utilized;
 - D. Wherever feasible and safe and not needed for security, lighting shall be kept off when not in use; and
 - E. Complaints concerning adverse lighting impacts will be promptly addressed and mitigated.

Page 4.12-19, Proposed Condition of Certification VIS-4 –Proposed Condition of Certification VIS-4 addresses surface treatment of the SVEP. VSE suggest the following modifications to the condition for clarity:

- VIS-4** The project owner shall treat the surfaces of all project structures and buildings visible to the public such that a) their color(s) minimize(s) visual intrusion and contrast by blending with the landscape; b) their colors and finishes do not create excessive glare; and c) their colors and finishes are consistent with local policies and ordinances. The transmission line conductors shall be non-specular and non-reflective, and the insulators shall be non-reflective and non-refractive.

The project owner shall submit for CPM review and approval, a specific surface treatment that will satisfy these requirements. The treatment plan shall include:

- A. A description of the overall rationale for the proposed surface treatment, including the selection of the proposed color(s) and finishes;
- B. A list of each major project structure, building **and** tank, pipe, and wall; ~~transmission line towers and/or poles; and fencing,~~ specifying the color(s) and finish proposed for each. Colors must be identified by vendor, name, and number; or according to a universal designation system;
- C. One set of color brochures or color chips showing each proposed color and finish;
- D. ~~One set of 11" x 17" color photo simulations at life size scale of the proposed treatment for project structures, including structures treated during manufacture, from the Key Observation Points;~~
- E. A specific schedule for completing the treatment; and
- F. A procedure to ensure proper treatment maintenance for the life of the project.

The project owner shall not specify to the vendors the **final finish** treatment of any buildings or structures treated during manufacture, or perform the final treatment on any buildings or structures treated in the field, until the project owner receives comment from the Riverside County Transportation and Land Management Agency and notification of approval of the treatment plan by the CPM. Subsequent modifications to the treatment plan are prohibited without CPM approval.

Verification: At least ~~90~~ **60** days prior to specifying **applying** vendor color(s) and finish(es) for structures or buildings to be surface treated during manufacture, the project owner shall submit the proposed treatment plan to the CPM for review and approval and simultaneously to the Riverside County Planning Department for review and comment.

Page 4.12-21, Proposed Condition of Certification VIS-5

This condition requires (item f) a set of photographic simulations of the landscaping at 5 and 20 years after planning. VSE requests deletion of this requirement for simulations. We believe that it is appropriate to rely on the professional judgement of a certified landscape architect that the landscaping plan, as designed, will provide appropriate screening for the project without the added expense of preparing visual simulations.

VSE requests that the installation of the landscaping be required as soon after construction as is feasible instead of the requirement that landscaping be installed during construction. Coordinating landscaping with construction is costly and inefficient.

Since species likely to be included in the landscaping plan would not grow significantly in one growing season, the loss of one year of growth would not impact the effect of landscaping on providing sufficient screening. Therefore VSE requests the following modifications:

- a) A detailed landscape, grading and irrigation plan, at a reasonable scale. The plan shall demonstrate how the requirements stated above shall be met. The plan shall provide a detailed installation schedule demonstrating installation of as much of the landscaping as early **after** ~~in the~~ construction process as is feasible. ~~in coordination with project construction.~~

In addition, the Verification requires that planting must occur during the first optimal planting season following site mobilization. This may be inconsistent with the landscape plan. Therefore, VSE request the following modification to the verification:

The planting must occur **in accordance with the approved landscape plan.** ~~during the first optimal planting season following site mobilization.~~

Page 4.12-22, Proposed Condition of Certification VIS-6 – VSE requests the following modifications for clarity. Please also note that VSE would require more than 48 hours to investigate the source and cause of a lighting complaint and to design appropriate measures for mitigating the causes of legitimate complaints. VSE suggests increasing this time to 10 days (per similar Conditions in CEC siting cases).

VIS-6 To the extent feasible, consistent with safety and security considerations and commercial availability, the project owner shall design and install all permanent exterior lighting such that a) **obtrusive light and glare** from **on-site** light fixtures **is minimized from public viewing areas** ~~do not cause obtrusive spill light beyond the project site;~~ b) lighting does not cause excessive reflected glare; c) direct lighting does not illuminate the nighttime sky; d) illumination of the project and its immediate vicinity is minimized, and e) the plan complies with local policies and ordinances. Lighting shall be consistent with Condition of Certification **VIS-2**.

The project owner shall simultaneously submit to Riverside County Transportation and Land Management Agency for review and comment and to the CPM for review and approval a lighting mitigation **management** plan that includes the following:

- A. Location and direction of light fixtures shall ~~take the lighting mitigation requirements into account;~~ **to minimize obtrusive light and glare in public areas;**

- ~~B. Lighting design shall consider setbacks of project features from the site boundary to aid in satisfying the lighting mitigation requirements;~~
- ~~B.D. Lighting shall incorporate use of commercially available fixture hoods/shielding, with **to help direct** light directed downward or toward the area to be illuminated;~~
- ~~E. Light fixtures shall not cause obtrusive spill light beyond the project boundary;~~
- ~~C.E. Use of low pressure sodium vapor lighting or overhead high pressure sodium vapor lighting with shields or cutoff luminaries shall be utilized;~~
- ~~D.F. All lighting shall be of **Provisions to maintain the** minimum necessary brightness **that is** consistent with operational safety and security; and~~
- ~~E.G. Provisions for lights in high illumination areas not occupied on a continuous basis (such as maintenance platforms) shall **to** have (in addition to hoods) switches, timer switches, or motion detectors so that the lights operate only when the area is occupied.~~

Verification: At least ~~90~~ **60** days prior to ordering any permanent exterior lighting, the project owner shall contact the CPM to determine the required documentation for the lighting mitigation **management** plan.

At least ~~60~~ **30** days prior to ordering any permanent exterior lighting, the project owner shall **submit** to Riverside County Transportation and Land Management Agency for review and comment and to the CPM for review and approval a lighting mitigation **management** plan.

If the CPM determines that the plan requires revision, the project owner shall provide to the CPM a revised plan for review and approval by the CPM. The project owner shall not order any exterior lighting until receiving CPM approval of the mitigation **management** plan

Prior to commercial operation, the project owner shall notify the CPM that the lighting has been completed and is ready for inspection. If after inspection the CPM notifies the project owner that modifications to the lighting are needed, within 30 days of receiving that notification the project owner shall implement the modifications and notify the CPM that the modifications have been completed and are ready for inspection.

Within ~~48 hours~~ **10 days** of receiving a lighting complaint, the project owner shall provide the CPM with a complaint resolution form report as specified in the Compliance General Conditions including a proposal to resolve the complaint, and a schedule for implementation. A copy of the complaint resolution form report shall be submitted to the CPM within 30 days of complaint resolution.

Page 4.12-24, Proposed Condition of Certification VIS-8 – VSE believes that Staff has used an unrealistic operating scenario in Staff's analysis of visual plumes. Despite this, Staff finds no significant adverse visual impact from plumes. Regardless of this finding, Staff proposes in Condition **VIS-8** to restrict the project's cooling tower to operating parameters that Staff has used in modeling the SVEP plumes (5.6 kg/s/MW at 20 F and 60 percent humidity, etc). VSE understands from previous discussions with Staff regarding the Walnut Creek Energy Project case (05-AFC-2) that the purpose of this condition would be to verify that the Sun Valley cooling tower would operate as described in VSE's documents. VSE therefore does not suggest the deletion of this condition. VSE requests a change to the condition, however, as follows:

VIS-8 The project owner shall ensure that the cooling tower is designed and operated as certified. The cooling tower shall be designed and operated so that the exhaust air flow rate per heat rejection rate (1) will not be less than 5.6 kilograms per second per megawatt when the ambient conditions are 20 degrees F and 60 percent relative humidity, (2) will not be less than 8.0 kilograms per second per megawatt when the ambient conditions are 59 degrees and 60 percent relative humidity and (3) will not be less than ~~8.9~~ 9.2 degrees F and 60 percent relative humidity. The project owner shall provide a cooling tower frequency curve from the cooling tower manufacturer for this project's final cooling tower design.

VSE also requests the deletion of the third and final paragraph of the Verification clause of proposed Condition of Certification VIS-8. This additional language is unnecessary and appears to add additional criteria for determining the significance of a plume's visual impact, when Staff has already determined that there is no significant impact as long as the cooling tower operates as certified.

~~The CPM will determine potential non-compliant operation through a comparison of the ambient conditions during the period(s) of complaint and the expected plume occurrence based on the manufacturer's plume fogging frequency curve, which will be provided by the project owner as a requirement of this condition. Additionally, if photographic evidence of extremely large plumes (plume length or height greater than 1,000 feet) is provided for ambient conditions that are close to the fogging/no fogging line of the fogging frequency curve, potential non-compliant operation can be determined by comparing the actual plume dimensions with dispersion modeling analysis predicted worst-case plume dimensions for the ambient conditions occurring during the period(s) of compliant operation.~~

WASTE MANAGEMENT

Page 4.13-12 Proposed Condition of Certification WASTE-3 – Generally speaking, it is the construction contractor who obtains the hazardous waste identification number during construction. VSE therefore suggests the following change to Condition **WASTE-3**

WASTE-3 The project owner *or construction contractor* shall obtain a hazardous waste generator identification number from the Department of Toxic Substances Control prior to generating any hazardous waste during construction and operation. ***The project owner shall obtain a hazardous waste generator identification number prior to generating any hazardous waste during operations.***

Page 4.13-13, proposed Condition of Certification WASTE-6 – Staff proposed Condition of Certification **WASTE-6** to ensure the site is remediated if contaminated soil is discovered. Since the Phase II Site Investigation did not reveal potential to discover contaminated soil, VSE request the condition be modified to reflect that remediation is only required if necessary.

WASTE-6 The project owner shall ensure that the site is properly characterized and remediated ***if necessary.***

Page 4.13-13, proposed Condition of Certification WASTE-7 – VSE does not see any need for this new condition and therefore requests it be deleted.

PALEONTOLOGICAL RESOURCES

Page 5.2-14, proposed Condition of Certification PAL-5 – Staff proposed Condition of Certification **PALEO-5** grants authority to the PRS and PRM(s) to halt construction if paleontological resources are encountered. This authority should be limited to those times where activities will result in significant adverse impacts to significant paleontological resources and therefore VSE requests the following modification to the second paragraph of the condition:

The project owner shall ensure that the PRS and PRM(s) have the authority to halt or redirect construction if paleontological resources are encountered ***and halting or redirecting construction is necessary to avoid significant adverse impacts to significant paleontological resources.***

FACILITY DESIGN

Page 5.1-10 Proposed Condition of Certification GEN-5 – VSE requests the following modification to this Condition. An Engineering Geologist would not be necessary for a site, such as SVEP that lack unique geological features, such as active faults, that require further delineation.

GEN-5 Prior to the start of rough grading, the project owner shall assign at least one of each of the following California registered engineers to the project: A) a civil engineer; **and** B) a soils engineer, or a geotechnical engineer or a civil engineer experienced and knowledgeable in the practice of soils engineering; ~~and C) an engineering geologist.~~ Prior to the start of construction, the project owner shall assign at least one of each of the following California registered engineers to the project: D) a design engineer, who is either a structural engineer or a civil engineer fully competent and proficient in the design of power plant structures and equipment supports; E) a mechanical engineer; and F) an electrical engineer. [California Business and Professions Code section 6704 et seq., and sections 6730, 6731 and 6736 requires state registration to practice as a civil engineer or structural engineer in California.] All transmission facilities (lines, switchyards, switching stations and substations) are handled in conditions of certification in the **Transmission System Engineering** section of this document.

~~C. The engineering geologist shall:~~

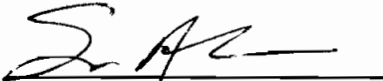
- ~~1. Review all the engineering geology reports and prepare final soils grading report; and~~
- ~~2. Be present, as required, during site grading and earthwork to provide consultation and monitor compliance with the requirements set forth in the 2001 CBC, Appendix Chapter 33; Section 3317, Grading Inspections (depending on the site conditions, this may be the responsibility of either the soils engineer or engineering geologist or both).~~

CONCLUSION

VSE hopes that these preliminary comments are useful to Staff in preparing for the Public Workshop on May 31, 2007. VSE will be preparing Supplemental Comments after the Public Workshop, which will incorporate discussions and/or resolution of issues at the Public Workshop as well comments for the remaining technical areas.

Dated: May 29, 2007

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "S. Galati", written over a horizontal line.

SCOTT A. GALATI

Counsel to Edison Mission Energy

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION
FOR THE SUN VALLEY ENERGY
PROJECT (SVEP)

DOCKET No. 05-AFC-3
PROOF OF SERVICE LIST
(Revised 3/23/07)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 05-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Jenifer Morris
Project Manager
NJ Resources, LLC
7240 Heil Ave.
Huntington Beach, CA 92647
jenifer@njr.net

***Victor Yamada, Project Manager**
Edison Mission Energy
18101 Von Karman Avenue,
Suite 1700
Irvine, CA 92612-1046
vyamada@EdisonMission.Com

Tom McCabe
Edison Mission Energy
18101 Von Karman Avenue
Irvine, CA 92612
tmccabe@edisonmission.com

APPLICANT'S CONSULTANT

CH2M HILL
Douglas M. Davy, Ph.D., Sr. Project
Manager
2485 Natomas Park Dr., Suite 600
Sacramento, CA 95833
ddavy@ch2m.com

COUNSEL FOR APPLICANT

Galati & Blek, LLP
Scott Galatti
Plaza Towers
555 Capitol Mall, Suite 600
Sacramento, CA 95814
sgalati@gb-llp.com

INTERESTED AGENCIES

***Songzhe Zhu**
Ca. Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
SZhu@caiso.com

Eric Saltmarsh
Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

John L. Geesman
Presiding Member
MS-31

Jackalyne Pfannenstiel
Associate Member
MS-33

INTERVENORS

Roland Skumawitz, Superintendent
Romoland School District
25900 Leon Road
Romoland, California 92548

Gary Fay
Hearing Officer
MS-9

California Unions for Reliable Energy
Marc D. Joseph
Gloria D. Smith
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, California 94080
mdjoseph@adamsbroadwell.com

Project Manager
Robert Worl
MS-15

Staff Counsel
Deborah Dyer
MS-14

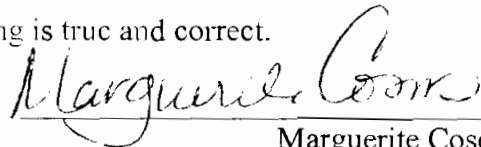
ENERGY COMMISSION

Public Adviser
MS-12

DECLARATION OF SERVICE

I, Marguerite Cosens, declare that on May 29, 2007, I deposited copies of the attached **Valle Del Sol Energy LLC's Comments on the Preliminary Staff Assessment, for the Sun Valley Energy Park (05-AFC-03)** in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct.



Marguerite Cosens