

September 11, 2007

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

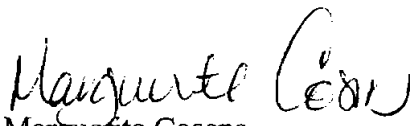
DOCKET	
05-AFC-2	
DATE	SEP 11 2007
RECD.	SEP 11 2007

Subject: **WALNUT CREEK ENERGY, LLC'S COMMENTS ON THE
PRESIDING MEMBER'S PROPOSED DECISION
DOCKET NO. 05-AFC-2**

Dear Ms. Rodriguez:

Enclosed for filing with the California Energy Commission are one original and 12 (Twelve) copies of the **Walnut Creek Energy, LLC's Comments on the Presiding Member's Proposed Decision, for the Walnut Creek Energy Park Docket No. 05-AFC-2.**

Sincerely,



Marguerite Cosens
Administrative Assistant
GalatiBlek

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STATE OF CALIFORNIA
Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
Walnut Creek Energy Park

DOCKET NO. 05-AFC-2

**WALNUT CREEK ENERGY, LLC'S
COMMENTS ON THE PRESIDING
MEMBER'S PROPOSED DECISION**

Walnut Creek Energy, LLC (WCE) in accordance with the Committee Notice dated August 17, 2007, hereby files its comments on the Presiding Member's Proposed Decision.

Project Description

Pages 5, 11, 55, 58, 65, 141, 147, 174, 189 (and other pages) – There are numerous references in the document to the “existing” warehouse. The warehouse has been demolished and therefore we request all references be modified to acknowledge that the demolition has been completed.

Pages 9, 230 – The PMPD states that the LMS100 can be operated at loads as low as 10 percent. The LMS100 cannot be operated at 10 MW and still meet continuous emission limits, so it would be better to say “as low as 50 MW”.

Air Quality

Page 13 – the issues and mitigation table says that SCAQMD is non-attainment for CO and is eligible for reclassification. This is no longer the case. The EPA has designated the South Coast Air Basin as attainment for CO.

Page 17 – The PMPD says that the project owner pays the District for RECLAIM Trading Credits. Payment is instead made directly to the seller.

Page 22 – Assumes CO is still in non-attainment. See previous comment

Page 25 – The PMPD says that the District has not yet issued a final Prevention of Significant Deterioration permit for the WCEP. The WCEP will not be a PSD major source, however, and so would not need a PSD permit.

Page 37 – Condition AQSC-7 – This condition is written as if the South Coast Air Basin were federal non-attainment for CO. This is no longer the case.

Page 38 – Condition AQSC-9 – Refers to SF6 in on-site transformers. This should be changed to circuit breakers.

Socioeconomics

Page 139 – The PMPD impacts table under “employment” says that the project would employ “about 20” persons. The AFC identified 9 full-time operation jobs.

Public Health

Page 137, Condition of Certification **Public Health-1** - The Condition repeats the phrase “is controlled.”

Water Resources

Page 201 - The PMPD says “San Jose Creek is an unlined drainage channel flowing into the San Gabriel River approximately 5 miles downstream from the WCEP site.” The San Jose Creek Flood Control Channel is lined with concrete for much of the distance to the San Gabriel River.

Noise

WCEP has filed supplemental testimony that establishes that the WCEP will rarely, if at all, operate during the four quietest nighttime hours. Since the PMPD based its revision to Condition of Certification **NOISE-4** on the assumption that the WCEP would operate at a much greater capacity factor than it will, we believe that our supplemental testimony demonstrates that the unmodified Condition of Certification is appropriate. Based on the reasons outlined in our testimony, we request that Condition of Certification **NOISE-4** be revised back to the version agreed to by WCE and the CEC Staff as reflected in the Final Staff Assessment.

If however, the Committee does not agree with our supplemental testimony and believes that the WCEP would cause significant impacts by operation during the four quietest hours of the nighttime, we offer an alternative to the limitations of 49 dBA as required in the current PMPD version of Condition of Certification **NOISE-4**. The alternative would involve revising Condition of Certification **NOISE-4** to the version presented in the FSA (52 dBA noise attributable to the project standard) and the addition of new Condition of Certification **NOISE-7** as follows:

NOISE-7 In the event that legitimate noise complaints under Condition of Certification **NOISE-2** are made by owners of existing residences located near monitoring Location M4 and the CPM determines that the WCEP was in fact operating during the four quietest hours of the nighttime and the noise attributable to such operation during the four quietest hours of the nighttime was greater than 49 dBA at the complainant's residence, the Project owner shall either 1) limit operations during the four quietest hours of the nighttime such that noise attributable to the project was no more than 49 dBA at the complainant's residence; or 2) shall at its own cost, and with the permission of the complainant, install acoustical improvements at the complainant's residence such that the noise attributable to the project is reduced by 3 dBA. Attenuating upgrades to the complainant's residence shall include, but not limited to,

- Replacement of single pane windows with acoustically-rated windows;

- Replacement of hollow-core exterior doors with solid-core doors and weather stripping;
- Provide additional sound insulation in walls and around penetrations and cracks; and/or
- Installation of air conditioning if not already present.

Verification: Fifteen (15) days prior to commercial operation of the WCEP, the project owner shall notify by mail all property owners within 1500 feet of the WCEP property boundary and the CPM of the start of the commercial operation. The notice shall inform property owners of the Noise Complaint Resolution Process under Condition of Certification **NOISE-2**.

Within 30 days of the CPM determining that a complaint is legitimate and that the WCEP was in fact operating during the four quietest hours of the nighttime in excess of 49 dBA at the complainant's residence, the Project Owner shall submit a plan to the CPM outlining the attenuation features to be installed at the complainant's residence to ensure that noise attributable to the WCEP will be reduced by 3 dBA within the complainant's residence, or the modifications to the WCEP's operations to ensure that noise attributable to the WCEP will not be greater than 49 dBA, during the four quietest hours of the nighttime.

Alternatives

Page 224, paragraph 6 – In referring to the WCEP site and its existing warehouse, the PMPD states: "Although demolition would be accomplished prior to SCE taking site control, it is reasonable to attribute this demolition to power plant construction." EME would take site control, not SCE. These are two separate entities.

Page 224, paragraph 8 - "...the Etiwanda site requires no demolition, is already controlled by SCE..." SCE and EME are two separate entities.

Page 226 – The PMPD states that California has plenty of wind energy resources near the load. In fact, most wind resource areas are relatively far from the load and require expensive transmission lines to move any more wind power to load centers.

Transmission System Engineering

Page 278 – Conditions TSE-5 and TSE-7 address construction, operation, and inspection of transmission facilities but as written do not clearly indicate that these refer

only to the power plant switchyard and not to the wider SCE system. We request a rewording to indicate that the conditions refer to the “owner’s transmission facilities.”

Dated: September 11, 2007

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "S. Galati", with a long horizontal flourish extending to the right.

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 WALNUT CREEK ENERGY PARK
(WCEP)

DOCKET No. 05-AFC-2

(Revised 6/6/07)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

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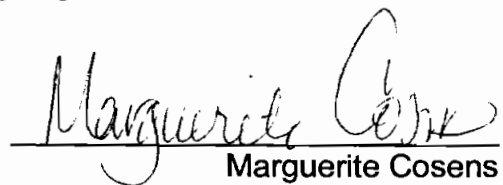
DECLARATION OF SERVICE

I, Marguerite Cosens, declare that on September 11, 2007, I deposited copies of the attached **Walnut Creek Energy LLC's Comments on the Presiding Member's Proposed Decision, for the Walnut Creek Energy Park (05-AFC-2)** in the United States mail at with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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


Marguerite Cosens