

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

APPLICATION FOR CERTIFICATION FOR THE
COLUSA GENERATING STATION

DOCKET No. 06-AFC-9

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| DOCKET | |
| 06-AFC-9 | |
| DATE | JAN 17 2008 |
| RECD. | JAN 17 2008 |

EVIDENTIARY HEARING INSTRUCTIONS AND AGENDA

This document sets forth the instructions for the Evidentiary Hearing on the Application for Certification for the Colusa Generating Station. Parties wishing to present evidence or cross-examine witnesses at the Evidentiary Hearing scheduled for **Wednesday, January 23, 2008, at 10:00 a.m., California Energy Commission, Hearing Room A, 1516 Ninth Street, Sacramento, California 95814** should be prepared to proceed in accord with the following instructions. This document includes the list of witnesses for each topic (**Attachment A**).

Background

At the Prehearing Conference on January 10, 2008, Applicant, Staff, and Intervenor PG&E ("parties") indicated they were ready to proceed with the Evidentiary Hearing.

The parties agree that the following topics set forth in the Application for Certification (AFC) and the Final Staff Analysis (FSA) are undisputed and that evidence and testimony on these topics shall be solely by declaration: **Project Description, Cultural Resources, Land Use, Noise and Vibration, Public Health, Transmission Line Safety and Nuisance, Waste, Geology and Paleontology, Efficiency, Reliability, Transmission System Engineering, and Alternatives.**

The parties agree that certain changes to the following topics set forth in the AFC and the FSA are acceptable and that, with those changes incorporated, evidence and testimony on these topics shall be by declaration and live testimony:

Air Quality: Change references to **AQ-24** in proposed Condition of Certification **AQ-SC7** to **AQ-27**; add the word "days" to the first sentence of the **AQ-27** Verification section; with respect to Table **AQ-27** Applicant and Staff will present to the Committee at the Evidentiary Hearing, the outcome of their discussions regarding Applicant's proposal to add a footnote to that Table. Staff will sponsor a witness from the Colusa County Air Pollution Control District (CCAPCD) to authenticate the Final Determination of Compliance and to be available for cross-examination on air quality issues.

Biological Resources: In proposed Condition of Certification **BIO-19**, change 1.28 acres to 1.25 acres.

Socioeconomics: Add the phrase “unless the materials or supplies are not available at competitive prices” to proposed Condition of Certification **SOC-1**.

Soil and Water Resources: Applicant will provide to the CPM written confirmation from the Glenn-Colusa Irrigation District of its source of construction water.

Traffic and Transportation: Change the verification to proposed Condition of Certification **Trans-1** to allow completion of the bridges prior to heavy haul transport; with respect to proposed Condition of Certification **Trans-3**, Applicant and Staff will present to the Committee at the Evidentiary Hearing the outcome of their discussions regarding Applicant’s request to change the requirement that a plan for mitigating construction impacts be presented to the Colusa County Planning and Public Works department 90 days prior to the start of site mobilization to 30 days prior to start of mobilization; and that with respect to the haul route, Applicant and Staff will present to the Committee at the Evidentiary Hearing the outcome of their discussions regarding the analysis of impacts caused by the use of the haul route and possible addition of applicable LORS.

Visual Resources: In proposed Condition of Certification **VIS-3**, change the wording to permit the planting of trees at any time prior to commercial operation. Applicant has withdrawn its requested change to proposed Condition of Certification **VIS-1**, concerning reporting on surface treatment maintenance.

Facility Design: Adopt Applicant’s requested change to proposed Condition of Certification **GEN-1** as set forth in applicant’s Prehearing Conference Statement.

Hazardous Materials Management and Worker Safety and Fire Protection: Applicant and Staff agree that the reference in proposed Condition of Certification **HAZ-7** to the route that hazmat vendors are to use is described incorrectly and Staff will correct the route description.

There is a dispute with respect to project-related impacts upon the Maxwell Fire Protection District (MFPD). Staff recommends proposed Condition of Certification **Worker Safety-6**, requiring the project owner to provide \$230,000 annually to the MFPD to ensure adequacy of fire protection services. Said amount may be reduced, upon request of the owner, by the amount of revenue received by MFPD as a result of transfer of local tax revenue resulting from the project.

Applicant requests that **Worker Safety-6** require the owner and MFPD to mutually determine, in consultation with third party experts if necessary, the amount of money to be provided to MFPD to ensure adequacy of fire protection services.

The parties shall be prepared to present evidence and testimony on this issue. Expert, as opposed to lay, opinion testimony will carry the most weight with the Committee. Applicant has indicated its intention to present the following expert witnesses: Randy Roxson, John Lee and Ross Feeney. Staff shall provide a list of any witnesses besides Greenberg and Tyler and the parties shall exchange copies of any documentary evidence not already provided in connection with the fire protection issue, including, but not necessarily limited to, witness qualifications, **no later than 12:00 noon on Tuesday, January 22**, and provide copies to the Committee, the Hearing Adviser, and those on the Proof of Service and mailing lists.

Evidentiary Hearing Procedures

The purpose of the Evidentiary Hearing is to establish the factual record necessary for a decision on the Project proposal. The record is developed by the presentation of sworn testimony and documentary evidence. Testimony on undisputed topics shall be submitted by sworn declarations filed under penalty of perjury and offered into evidence by stipulation of the parties.

The parties' witnesses who appear in person shall be available for cross-examination. Each party sponsoring a witness shall establish the qualifications of the witness and ask the witness to summarize his or her prepared testimony before moving the testimony and relevant documents into evidence. At the conclusion of direct testimony, the witness may be cross-examined, followed by redirect and recross examination as appropriate. Multiple witnesses may testify as a panel, if warranted.

No time limits on testimony or cross-examination are being established at this time. However, the Committee may, at its discretion, request that testimony or cross-examination be curtailed if it becomes cumulative or in any other way unproductive, in the interest of completing the Evidentiary Hearing on January 23, 2008.

The Applicant has the burden of presenting substantial evidence to support the findings and conclusions required for certification of the site and related facilities. [Cal. Code of Regs., tit. 20, § 1748(e).]

Public Participation

Members of the public may participate at the Evidentiary Hearing by providing oral or written comments on the Project. For information on how to participate, contact the Energy Commission Public Adviser's Office at 1-916-654-4489 or 1-800-822-6228, or email at: [pao@energy.state.ca.us].

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TELECONFERENCE OPTION: The following toll free phone number will be available at 10:00 a.m. for callers to participate in the hearing:

Call: 1-800-857-4830
Use Passcode: "COLUSA"
Conference Leader: "Raoul Renaud"

Additional Information

Please see the **NOTICE OF PREHEARING CONFERENCE and EVIDENTIARY HEARING** dated December 11, 2007, for further information.

If you have a disability and need assistance to participate, please contact Lourdes Quiroz at 916-654-5146 or e-mail at: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

Technical questions concerning the Project should be addressed to Jack Caswell, the Staff Project Manager, at 916-653-0062 or e-mail at: [\[jcaswell@energy.state.ca.us\]](mailto:jcaswell@energy.state.ca.us).

Questions of a legal or procedural nature should be directed to Raoul Renaud, the Hearing Officer, at 916-651-2020 or e-mail at [\[rrenaud@energy.state.ca.us\]](mailto:rrenaud@energy.state.ca.us).

Media inquiries should be directed to Claudia Chandler, Assistant Executive Director for Media and Public Communications at 916-654-4989 or e-mail at: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

Information concerning the status of the Project, as well as notices and other relevant documents, may be viewed on the Energy Commission's website at: [\[www.energy.ca.gov/sitingcases/colusa\]](http://www.energy.ca.gov/sitingcases/colusa).

Dated January 17, 2008, at Sacramento, California.



Raoul A. Renaud
Hearing Adviser

ATTACHMENT A

TOPIC and WITNESS LIST

WEDNESDAY, January 23, 2008

| Topic | Witnesses | Method |
|---|---|---------------------------------|
| Project Ownership and Description | Applicant: Welch, Maring Staff: Caswell | Declarations and live testimony |
| Air Quality | Applicant: Strehlow Staff: Walters, Golden CCAPD: tbd | Declarations and live testimony |
| Biological Resources | Applicant: Leach Staff: York, Ward | Declarations |
| Cultural Resources | Applicant: Hale, Herbert Staff: Torres | Declarations |
| Land Use | Applicant: Drury, Feeney Staff: Hamblin | Declarations |
| Noise and Vibration | Applicant: Green Staff: Baker | Declarations |
| Public Health | Applicant: Strehlow Staff: Greenberg | Declarations |
| Socioeconomics | Applicant: Welch, Dorje, Feeney Staff: Stennick | Declarations |
| Soil and Water Resources | Applicant: Welch, Connell, Rice Staff: Latteri | Declarations |
| Traffic and Transportation | Applicant: Welch, Amin Staff: Flores | Declarations and live testimony |
| Transmission Line Safety and Nuisance | Applicant: Larsen Staff: Odoemelam | Declarations |
| Visual Resources | Applicant: Welch, Knox Staff: Kanemoto | Declarations |
| Waste Management | Applicant: Skov Staff: Townsend-Hough | Declarations |
| Facility Design | Applicant: Welch, Ritter Staff: Khoshmashrab | Declarations |
| Geology and Paleontology | Applicant: Rice, Lawler Staff: Pilling | Declarations |
| Power Plant Efficiency | Applicant: Ritter Staff: Khoshmashrab | Declarations |
| Power Plant Reliability | Applicant: Ritter Staff: Khoshmashrab | Declarations |
| Alternatives | Applicant: Shileikis Staff: Caswell | Declarations |
| Hazardous Materials Management; Worker Safety and Fire Protection | Applicant: Lague, Royall, Griggs Staff: Greenberg, Tyler | Declarations and live testimony |

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

**APPLICATION FOR CERTIFICATION
FOR THE COLUSA GENERATING
STATION PROJECT**

**Docket No. 06-AFC-9
PROOF OF SERVICE
(REVISED 8/22/2007)**

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:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-9
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

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DECLARATION OF SERVICE

I, Kate Nicholls, declare that on 1/17/08, I deposited copies of the attached **EVIDENTIARY HEARING INSTRUCTIONS AND AGENDA** in the United States mail at Sacramento, California 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 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.**



KATE NICHOLLS