



## SECOND ERRATA to PRESIDING MEMBER'S PROPOSED DECISION

WALNUT CREEK ENERGY PARK  
APPLICATION FOR CERTIFICATION  
DOCKET NO. 05-AFC-2

### Background

On August 15, 2007, the Committee released its Presiding Member's Proposed Decision (PMPD) in the above-captioned matter. As a result of the supplementary testimony and comments on the PMPD at a public hearing on September 12, 2007, the Committee released its Revisions to the Presiding Member's Proposed Decision on September 25, 2007. On January 21, 2008, the South Coast Air Quality Management District (SCAQMD) releases its Addendum to the Final Determination of Compliance. Consequently, the Committee scheduled a public hearing to receive the Addendum into the record and respond to other information that may have developed during the interim. The Committee also released its First Errata to the Presiding Member's Proposed Decision to restate the Committee's deliberations based upon comments received in early October 2007.

Following the Committee hearing on February 21, 2008, the Committee hereby releases its Second Errata with superseding changes or additions to the Presiding Member's Proposed Decision, which incorporate the SCAQMD's Addendum and further clarify the Conditions of Certification concerning potential project noise impacts.

### Air Quality

Based upon Staff's comments, dated February 11, 2008 and February 15, 2008, and oral comments from SCAQMD at the hearing, the following changes and additions are made to the Air Quality section:

- Condition of Certification **AQ-3** is supplemented to include a requirement that the project be completed and operational within three years of the District's Permit to Construct;
- Condition of Certification **AQ-7** is (a) amended to require the project owner to initially source test for NO<sub>x</sub>, CO, SO<sub>x</sub>, VOC, NH<sub>3</sub>, and PM<sub>10</sub> and periodically source test thereafter every three years for NO<sub>x</sub>, CO, SO<sub>x</sub>, VOC, and PM<sub>10</sub> and (b) is supplemented to include a requirement that annual source testing include reporting of emissions in pounds per hour (lbs/hr).
- Condition of Certification **AQ-17** is added to require one time testing to demonstrate compliance with performance criteria for NO<sub>x</sub> (0.08 lbs/MW-hr) and PM<sub>10</sub> (0.06 lbs/MW-hr) for each turbine.
- Condition of Certification **AQ-18** is added to restrict project operation to 4,000 hours annually per turbine.
- The PMPD table (p. 30) listing District Permit Conditions with corresponding Commission Conditions of Certification, derived from Staff's Air Quality Table 22, is amended to incorporate the above changes and additions.

<b>DOCKET</b>	
<b>05-AFC-2</b>	
DATE	FEB 22 2008
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## Noise

The following changes are based upon the written comments of the Applicant and Staff, as well as oral comments at the hearing.

Condition of Certification **NOISE-4** is amended as follows:

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 to plant operation, during the four quietest consecutive hours of the nighttime, to exceed an average of 52 dBA measured near the intersection of Fieldgate Avenue and Folger Street (monitoring location M2) and near the intersection of Inyo Street and Roxham Avenue (monitoring location M4).

The measurement of power plant noise for the purposes of demonstrating compliance with this condition of certification may alternatively be made at a location, acceptable to the CPM, closer to the plant (e.g., 400 feet from the plant boundary) and this measured level then mathematically extrapolated to determine the plant noise contribution at the affected residence. However, notwithstanding the use of this alternative method for determining the noise level, the character of the plant noise shall be evaluated at the affected residential locations (M2 and M4) to determine the presence of pure tones or other dominant sources of plant noise.

No new pure-tone components may be introduced. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints.

- A. When the project first achieves a sustained output of 90 percent or greater of rated capacity, the project owner shall conduct a ~~25-hour~~ community noise survey at monitoring sites M2 and M4, or at a closer location acceptable to the CPM. The project owner shall conduct the above measurement with all of the five combustion turbine generators (CTGs) operating simultaneously at 90 percent or greater of rated capacity. The project's operating profile during the remainder of the survey shall be according to the description below. This survey during power plant full load operation shall also include measurement of one-third octave band sound pressure levels to ensure that no new pure-tone noise components have been introduced.
- B. The project owner shall perform the measurement described above at monitoring locations M2 and M4 (or at a closer location acceptable to the CPM, as described above) with only four of the CTGs operating simultaneously at 90 percent or greater of their rated capacity. Also, the project owner shall perform this measurement at M2 and M4 (or at a closer location acceptable

to the CPM, as described above) with only three of the CTGs operating simultaneously at 90 percent or greater of their rated capacity. Finally, the project owner shall perform this measurement at M2 and M4 (or at a closer location acceptable to the CPM, as described above) with only two of the CTGs operating simultaneously at 90 percent or greater of their rated capacity. The project owner may obtain the measurements at any time during the period identified in the verification, and they need not be obtained in one continuous session.

- C. If the results from the noise survey indicate that the power plant average noise level at the affected receptor sites exceeds the above value 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.
- D. If the results from the noise survey indicate that pure tones are present, mitigation measures shall be implemented to eliminate the pure tones.

**Verification:** The survey shall take place within 3060 days of the project first achieving a sustained output of 90 percent or greater of rated capacity. Within 15 days after completing the survey, the project owner shall submit a summary report of the survey to the CPM. Included in the survey report will be a description of any additional mitigation measures necessary to achieve compliance with the above listed noise limit, and a schedule, subject to CPM approval, for implementing these measures. When these measures are in place, the project owner shall repeat the noise survey.

Within 15 days of completion of the new survey, the project owner shall submit to the CPM a summary report of the new noise survey, performed as described above and showing compliance with this condition.

Condition of Certification **NOISE-7** is amended as follows:

In the event that a legitimate nighttime noise complaint under Noise Condition **NOISE-2** is made by an owner of an existing residence located near monitoring locations M2 and M4 but not resolved by off-site mitigation to the verified satisfaction of the complainant or by on-site mitigation to the satisfaction of the CPM and the CPM determines the project was operating during the four quietest consecutive hours of the nighttime (0100 to 0500) and the noise attributable to such operation was greater than 49 dBA at the complainant's residence, the Project Owner shall limit such operation during the four quietest consecutive

hours of the nighttime (0100 to 0500) so that the noise attributable to the project is no more than 49 dBA at the complainant's residence. The limitation on project operation shall not apply if the project is dispatched to avoid or during a Cal-ISO-declared ~~Stage-2~~ Electrical Emergency, as determined by the Cal-ISO.

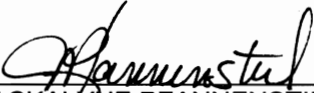
**Verification:** Fifteen (15) days prior to commercial operation, the project owner shall notify by mail all residents within 1,750 feet of the project boundary of the start of commercial operation. The notice shall inform residents of the Noise Complaint Resolution process under Condition of Certification **NOISE-2**.

Within 10 days of the CPM determining that a complaint is legitimate and the project was operating during the four quietest consecutive hours of the nighttime in excess of 49 dBA at the complainant's residence, the project owner shall limit project operation during the four quietest consecutive hours of the nighttime (0100 to 0500) so that noise attributable to project operation does not exceed 49 dBA.

If the project is dispatched to operate during the four quietest hours of the nighttime (0100 to 0500) to avoid , or during, a Cal-ISO declared emergency, verification of Cal-ISO's determinations shall be provided to the CPM within 3 business days after the actual or pending electrical emergency. The form of the verification shall be a Cal-ISO Alert Warning and Emergency Notice (AWE Notice) for Southern California documenting such actual or pending electrical emergency.

Dated: February 22, 2008

**ENERGY RESOURCES CONSERVATION AND  
DEVELOPMENT COMMISSION**

  
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JACKALYNE PFANNENSTIEL  
Chairman and Presiding Member  
Walnut Creek AFC Committee

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 10/16/07)

**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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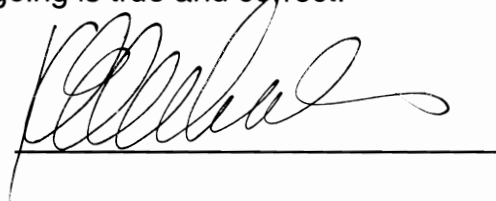
**DECLARATION OF SERVICE**

I, Katherine Nicholls, declare that on February 22, 2008, I deposited copies of the attached SECOND ERRATA TO PRESIDING MEMBER'S PROPOSED DECISION in the United States mail with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

AND -

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.



A handwritten signature in black ink, appearing to read 'Katherine Nicholls', is written over a horizontal line.