

Memorandum

Date: April 3, 2008
Telephone: (916) 653-0062

To: James D. Boyd, Presiding Member
Raoul Renaud, Hearing Officer

From: California Energy Commission – Jack W. Caswell
1516 Ninth Street
Sacramento, CA 95814-5512
Project Manager



Subject: COLUSA GENERATING STATION PROJECT (06-AFC-9) PMPD COMMENTS

Attached are staff's PMPD Comments for the proposed Colusa Generating Station (CGS) project.

DOCKET 06-AFC-9	
DATE	APR 03 2008
RECD.	APR 03 2008

Attachment: 1
Colusa Proof of Service List

PROOF OF SERVICE (REVISED 8/22/07) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 4/3/08
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STAFF PMPD COMMENTS

Submitted by Jack W. Caswell and Dick Ratliff

AIR QUALITY

Page 106 and 107, correct staff's typographical error as follows: The auxiliary boiler emission concentration limits are based on "3 percent O₂", not 15 percent O₂ as shown on bottom of Page 106 and top of Page 107.

Page 135, Condition of Certification AQ-SC7, Appendix A addition. Appendix A, as referred to, in this condition (and also as listed in the body of the decision on Page 122) needs to be appended to the conditions as part of the decision. This appendix provides the list of emission reduction sources that were evaluated and that were found to meet both District and CEQA mitigation purposes. Since Appendix A is already used for the exhibit list we further recommend changing the name of the ERC appendix to Appendix AQ-1, including where it is cited on Page 122 and Page 135.

Page 136, Condition of Certification AQ-SC7, a correction to fix staff's continuity error. The condition of certification number identified in line six of the verification should be revised from "AQ-24" to "**AQ-27**" and bolded. This correction was made in the body of the condition.

Page 137, Condition of Certification AQ-SC9, a correction to fix staff's continuity error. The condition of certification number identified in line three of this condition should be revised from "**AQ-19**" to "**AQ-22**".

Page 144, Condition AQ-27, editorial comment. The word "days" should be added after 30 in the first sentence of the Verification.

BIOLOGICAL RESOURCES

Please revise the PMPD text with the following revisions.

Page 174, third paragraph, first sentence, please delete "project" before "area" and add "wetlands, including" before "vernal pools." This change clarifies that not all of these vegetation types are in close proximity to the project and introduces wetlands in a broader sense as a lead-in to the later wetland impacts discussion.

Page 179, table legend, following the last semicolon, please add "Threat rank extensions:", and add a decimal point before each of the numbers (i.e., .1, .2, .3). This will avoid confusion between CNPS Lists and their threat rank extensions (e.g., List 3 vs. threat rank .3).

Page 80, delete last sentence. The recently docketed Biological Opinion does not require additional measures not already included in the FSA.

Page 183, last bullet, change "4.1" to "1.5" to reflect corrections to the applicant's calculations as indicated by the USFWS following FSA publication and documented by

staff's February 25, 2008 memo to the Committee and Hearing Office. Please make the same change on BIO-16 on page 198.

Page 186, last sentence, add an "s" after "Army Corp".

CULTURAL RESOURCES

Page 221, Findings and Conclusions, numbers 1 and 2. Numbers 1 and 2 state the same idea. Number 2 is more general and will be sufficient for both. Staff suggests removing Findings and Conclusions, number 2 and change number 1 with the following text.

1. There are no recorded or known archaeological "resources" within the project area.

Page 221, Findings and Conclusions, number 3, last sentence. Current text: "The other is the Glenn-Colusa Canal which will not be significantly impacted by the project". Staff suggests replacing this statement with the following text:

The Glenn-Colusa Canal will be impacted by the project, but due to a lack of integrity, including on-going maintenance, the impact is not significant.

Page 221, Findings and Conclusions, number 6. Current text: "The project owner will provide a cultural resources monitors with authority to halt construction if unknown resources are discovered". At times, monitors are minimally qualified. Staff assures that a cultural resources professional who is qualified to make informed recommendations regarding the significance of newly discovered cultural resources is retained by the project. Monitors work under the direction of the cultural resources specialist who meets the Secretary of Interior Qualification Standards for Cultural Resources Professionals. Staff suggests replacing the statement with the following text.

The project owner will provide a cultural resources specialist monitor with authority to halt construction if unknown resources are discovered.

NOISE AND VIBRATION

Please revise the PMPD text with the following revision.

Page 279, Condition of Certification NOISE-8, last paragraph before "Verification," last line, after "complaints or enforcing noise" add "mitigation."

SOCIOECONOMICS

Please revise Condition of Certification SOCIO-1 in the PMPD:

Page 291, the PMPD language is inconsistent with the staff's and applicant's agreement at the Prehearing Conference and as reflected in the transcript dated Thursday, January 10, 2008, on pages 10,11,12.

Revised Socio - 1:

SOCIO-1 The project owner and its contractors and subcontractors shall procure materials and supplies within Colusa and Glenn Counties unless the materials or supplies are not available at competitive pricing.

SOILS AND WATER RESOURCES

Please revise the PMPD text with the following revision.

Page 208, Condition of Certification SOIL & WATER-4, third and fourth sentence after "project," add "owner."

TRANSMISSION SYSTEM ENGINEERING

Please revise the PMPD text with the following revision.

Page 84 under the Findings and Conclusion section, the PMPD indicates on page 85, list number 9 that: "The CAISO has approved the CGS to interconnect to the CAISO controlled Grid after making the required system upgrades." This statement requires a revision as:

"The preliminary approval letter which has been issued by the CAISO indicates that the CGS project can be interconnected to the CAISO grid after making the required system upgrades."

Memorandum

To: Committee for the Colusa Generating Station Project
(06-AFC-9)
Commissioner Boyd
Raoul Renaud, Hearing Advisor

Date : February 25, 2008

From: **California Energy Commission** – Richard Ratliff
1516 Ninth Street
Sacramento CA 95814-5512
Staff Counsel IV

R.R.

DOCKET	
06-AFC-9	
DATE	FEB 25 2008
RECD.	FEB 25 2008

Subject: **Applicant's Post-FSA Changes to the Colusa Generating Station Biological Resources Analysis**

The U.S. Fish and Wildlife Service (USFWS) e-mailed the Colusa applicant on February 12, 2008, stating that the applicant had misapplied mitigation ratios in the USFWS (1997) programmatic mitigation guidance for the federal and state listed (as an "endangered species") giant garter snake. Soon thereafter, the applicant e-mailed Staff stating that its GIS staff discovered a miscalculation in the impact acreages originally calculated, reported to the Commission, and set forth in the FSA. This means the habitat compensation and impact acreages for giant garter snake are incorrect in the FSA. The attached table from the FSA reflects the changes that would need to be made, both to the acreages affected and to the mitigation ratio for habitat purchase.

The USFWS and applicant agree to the corrected acreage numbers, and Staff has requested that the USFWS review this memo and confirm its agreement.

The Committee will need to decide how to re-open the evidentiary record to admit this evidence. I propose that we address the problem by a written stipulation (regarding the mistake and the corrected number) between Staff and the applicant, attaching a declaration from the Staff witness. Please advise me if this approach is acceptable to the Committee

cc: Jack Caswell
Brian McCollough
Misa Ward
Rick York
Michelle Tovar (USFWS)
POS list (06-AFC-9)

Proof of Service (Revised 8/22/07) filed with original.
Mailed from Sacramento on 2/25/08 *CR*

**BIOLOGICAL RESOURCES Table 7
Giant Garter Snake Mitigation**

Type of Impact	Approximate Acreage Impacted	Proposed Mitigation Ratio	Approximate Mitigation Acreage Required*
<u>Permanent</u>	0.68 acre permanent aquatic habitat	3:1 impacted habitat for aquatic <u>and upland</u> habitat*	2.05 acres aquatic habitat <u>and</u> 1.50-1.10 acres upland habitat
	0.50 acre permanent upland habitat	2-x replacement habitat for upland habitat	
	TOTAL 1.18 acres		TOTAL 3.55 acres
<u>Temporary</u>	1.83 acre temporary aquatic habitat	4:1 <u>Restoration only if disturbed habitat is restored within one season</u>	4.83 <u>Restoration only if restored within one season (restoration of temporary impact area)</u>
	0.87 acre temporary upland habitat	<u>or</u> Restoration plus 2:1 replacement if restored within two seasons	<u>or</u> Restoration plus 5.40 acres replacement habitat if restored within two seasons
	TOTAL 2.70 acres		

Sources: URS 2007a, USFWS 2008.

* Acreages are rounded. Mitigation land for impacts would be the greater amount for either impacts to giant garter snake habitat or jurisdictional wetlands, but not both.

In addition to changes in this table, Condition of Certification BIO-16 would also have to be changed, as follows.

Giant Garter Snake Mitigation

BIO-16 To mitigate impacts to the giant garter snake and its habitat, the project owner shall implement the USFWS avoidance and minimization measures for construction activities in giant garter snake habitat. For each acre (or portion of an acre) of giant garter snake habitat permanently impacted, the project owner shall purchase three (3) acres of giant garter snake credit at a USFWS and CDFG-approved conservation bank. ~~Additionally, the project owner shall purchase two (2) acres of upland giant garter snake habitat for each acre of aquatic replacement habitat.~~ The project owner shall purchase credits for a minimum of 2.05 acres of giant garter snake aquatic habitat and ~~4.40~~ 1.50 acres of giant garter snake upland habitat. Temporary impact areas shall be restored within one season, or if restored within two seasons then an additional 5.40 acres of credit at a USFWS and CDFG-approved conservation bank shall be purchased by the project owner.

Verification: Within 15 days of site or related facilities mobilization the project owner shall provide written evidence of purchase of giant garter snake credits to the CPM.

References

USFWS 2008. Personal Communication between Melissa Newman, URS and Michelle Tovar, USFWS regarding applicant's misinterpretation of USFWS programmatic mitigation guidance on giant garter snake and miscalculated impact acreages. Emails dated 2/12/08, 2/19/08, and 2/20/08.

USFWS 1997. Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects with Relatively Small Effects on the Giant Garter Snake within Butte, Colusa, Glenn, Fresno, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, and Yolo Counties, California. November 13, 1997.

**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
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DECLARATION OF SERVICE

I, Maria Sergoyan, declare that on 4/3/08, I deposited copies of the attached Colusa Generating Station Project (06-AFC-9) PMPD Comments 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.



Maria Sergoyan