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May 9, 2008

DOCKET	
07-AFC-1	
DATE	MAY 09 2008
RECD.	MAY 09 2008

File No. 039610-0001

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-1
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

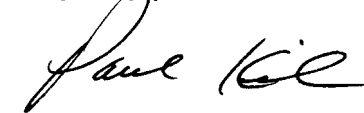
Re: Victorville 2 Hybrid Power Project: Docket No. 07-AFC-1

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Revised Proposed Condition of Certification BIO-18.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the CEC's current electronic proof of service list.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 07-AFC-1 Proof of Service List (w/encl. via e-mail)
Michael J. Carroll, Esq. (w/encl.)

Michael J. Carroll
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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:) Docket No. 07-AFC-1
)
Application for Certification,)
for the VICTORVILLE 2 HYBRID POWER) REVISED PROPOSED CONDITION OF
PROJECT) CERTIFICATION BIO-18
by The City of Victorville)
)
_____)

As discussed during the telephonic Biological Resources Mitigation Workshop held on May 5, 2008, Applicant hereby files a revised proposed Condition of Certification BIO-18 for consideration.

DATED: May 9, 2008

Respectfully submitted,



Michael J. Carroll
of LATHAM & WATKINS LLP

**Victorville 2 Hybrid Power Plant
Revised Proposed Condition of Certification BIO-18**

STREAMBED IMPACT AVOIDANCE AND MINIMIZATION MEASURES

BIO-18 Except as specifically provided herein, the project owner shall not divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from any drainage during construction and operation of the project.

The project owner may use the existing roadway located at drainage D2 for the purpose of inspecting and maintaining the wastewater pipeline and transmission line, but only during periods when the drainage is dry.

The project owner may trench across drainage D1 for the purpose of installing the wastewater pipeline. The project shall implement the following measures, which would be included as terms and conditions in a Streambed Alteration Agreement issued by the California Department of Fish & Game for installation of the wastewater pipeline across drainage D1 if the project was not under California Energy Commission (CEC) jurisdiction:

- a. The project owner shall secure appropriate habitat compensation lands as required by Condition of Certification BIO-11.
- b. The project owner shall not allow water containing mud, silt or other pollutants from grading, aggregate washing, or other activities to enter a lake or flowing stream or be placed in locations that may be subjected to high storm flows.
- c. The project owner shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws, and it shall be the responsibility of the operator to ensure compliance.
- d. Spoil sites shall not be located within a stream/lake or locations that may be subjected to high storm flows, where spoil shall be washed back into a stream/lake, or where it will impact streambed habitat, aquatic or riparian vegetation.
- e. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources, resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the state. These materials, placed within or where they may enter a stream/lake, by project owner or any party working under contract or with the permission of the project owner shall be removed immediately.
- f. No broken concrete, debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen

material from any construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the state. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

g. No equipment maintenance shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.

h. The project owner shall notify the CPM and CDFG, in writing, at least five (5) days prior to initiation of project activities in jurisdictional areas as noted and at least five days prior to completion of project activities in jurisdictional areas.

i. The project owner shall notify the CPM and CDFG of any change of conditions to the project, the jurisdictional impacts, or the mitigation efforts, if the conditions at the site of a proposed project change in a manner which increases or decreases the risk that a fish or wildlife resource may be substantially adversely affected by the proposed project. The notifying report shall be provided to the CPM and CDFG no later than seven (7) days after the change of conditions is identified. As used here, change of condition refers to the process, procedures, and methods of operation of a project, the biological and physical characteristics of a project area, or the laws or regulations pertinent to the project as defined below. A copy of the notifying change of conditions report shall be included in the annual reports.

j. The project owner shall provide a copy of the Energy Commission Decision to all contractors, subcontractors, and the Applicant's project supervisors. Copies shall be readily available at work sites at all times during periods of active work and must be presented to any CDFG personnel or personnel from another agency upon demand.

Verification: No fewer than 30 days prior to the start of any site or related facilities mobilization activities, the project owner shall implement the mitigation measures above as required by CDFG. No fewer than 30 days prior to the start of work potentially affecting waters of the state or riparian vegetation, the project owner shall provide written verification (i.e., through incorporation into the BRMIMP) to the CPM that the above best management practices will be implemented and provide a discussion of work in waters of the state in Monthly Compliance Reports for the duration of activities affecting waters of the state or riparian vegetation.

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

In the Matter of:) Docket No. 07-AFC-1
)
Application for Certification,) **ELECTRONIC PROOF OF SERVICE**
for the VICTORVILLE 2) **LIST**
HYBRID POWER PROJECT)
by the City of Victorville) **(revised September 6, 2007)**
)
_____)

Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 07-AFC-1
1516 Ninth Street, MS-4
Sacramento, California 95814-5512
docket@energy.state.ca.us

Transmission via electronic mail addressed to the following:

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VICTORVILLE II HYBRID POWER PROJECT
CEC Docket No. 07-AFC-1

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VICTORVILLE II HYBRID POWER PROJECT
CEC Docket No. 07-AFC-1

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on May 9, 2008, I deposited a copy of the attached:

REVISED PROPOSED CONDITION OF CERTIFICATION BIO-18

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that 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. Executed on May 9, 2008, at Costa Mesa, California.



Paul Kihm