

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

DOCKET 07-AFC-1	
DATE	JUN 13 2008
RECD.	JUN 13 2008

In the Matter of:)) Application for Certification for the) Victorville 2 Hybrid Power Project) _____)	Docket: 07-AFC-1 Staff Comments on PMPD June 13, 2008
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INTRODUCTION

On May 30, 2008, the Committee in the Victorville 2 Hybrid Power Project Application for Certification (AFC) proceeding issued the Presiding Member's Proposed Decision (PMPD). In the Notice of Availability of the Presiding Member's Proposed Decision and Notice of Committee Conference and Evidentiary Hearing and Notice of Committee Hearing (Notice), the Committee stated that comments on the PMPD are to be filed no later than June 13th at 4:00 pm. These are staff's comments.

In general, staff finds that the PMPD contains a thoughtful discussion of the issues raised in the AFC proceeding. Except as noted below, staff has no major disagreement with any of the conclusions for each technical area. However, there are several areas of the engineering and environmental assessments which could be clarified or which do not reflect agreements between the staff and the applicant. These are identified below.

Environmental Assessment Comments

Air Quality

Discussion: Staff provided two addenda to the air quality section of the Final Staff Assessment (FSA) -- identified as Exhibits 203 and 210 -- responding to the comments received by the applicant and the Committee after the FSA was published. As a result of those filings, a number of air quality issues previously disputed between staff and the applicant were resolved, and staff recommended numerous changes to the staff Air Quality conditions of certification included in the FSA. However, those changes do not appear to have been incorporated into the PMPD. Staff specifically directs the Committee's attention to the discussion of PM2.5 emission impacts. After filing the FSA, staff reviewed additional ambient air quality data and concluded that the ambient

PM2.5 levels in the Victorville area do not exceed federal and state standards and that no PM2.5 mitigation is required. (Exh. 210.)

In addition, Staff notes that the rulemaking referred to on page 111 of the PMPD was completed in 2007, and that the reference to the Colusa Generating Station in Finding and Conclusion 5 on page 112 should be changed to the Victorville 2 Hybrid Power Project.

Finally, with respect to its recommendation in Exhibit 203, page 4 regarding AQT-5 and the duration of transient conditions, staff notes that the Mojave Desert Air Quality Management District has approved slightly longer times, which should be incorporated into the final decision for this project. (Exh. 202, p. 18.) Based on the Air Quality exhibits received into evidence at the evidentiary hearing, staff recommends the following changes to the Conditions of Certification in the PMPD:

AQ-SC3 G. All construction vehicles shall enter the construction site through the treated entrance roadways, unless an alternative route has been submitted to and approved by the CPM District.

J. At least the first 500 feet of any public roadway exiting from the construction site shall be swept at least twice daily (or less during periods of precipitation or on other days with the concurrence of the CPM) on days when construction activity occurs or on any other day when dirt or runoff from the construction site is visible on the public roadways.

AQ-SC4 Step 3: The AQCMM or Delegate shall direct a temporary shutdown of the activity causing the emissions if step 2, specified above, fails to eliminate visible dust plume at any location 200 feet or more off the project construction fence line ~~result in effective mitigation~~ within one hour of the original determination. The activity shall not restart until the AQCMM or Delegate is satisfied that appropriate additional mitigation or other site conditions have changed so that visual dust plumes will not result upon restarting the shutdown source. The owner/operator may appeal to the CPM District any directive from the AQCMM or Delegate to shut down an activity, provided that the shutdown shall go into effect within one hour of the original determination, unless overruled by the CPM District before that time.

AQ-SC6 Construction activities shall be limited to the hours between one hour after sunrise and one hour before sunset during July 15 and August 30. At other times, construction activities shall be limited to the hours between one hour after sunrise and thirty (30) minutes before sunset.

AQ-SC9 The project owner shall pave, with asphalt concrete that meets the current county road standards, unpaved local roads to provide emission reductions of 132.7 tons per year of ~~PM_{2.5}PM₁₀~~, prior to start construction of the project. Calculations of ~~PM_{2.5}PM₁₀~~ emission reduction credits shall be performed in accordance with Sections 13.2.1 and 13.2.2 of the U.S. EPA's AP-42 "Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources", Fifth Edition, ~~and PM_{2.5} portion shall be calculated as being equal to ten (10) percent of the total PM₁₀ road dust emission reduction credits.~~ All paving of roads shall be complete at least 15 days prior to start construction of the project.

Verification: At least ~~one year~~ 60 days prior to start construction, the project owner shall submit to the CPM and the District, for approval, a list and pictures of candidate roads to be paved, their actual daily average traffic count including classifications of vehicles (ADT), and daily vehicle miles travel (DVMT), their actual road dust silt content, and calculations showing the appropriate amount of emissions reductions due to paving of each road segment. ~~All paving of roads shall be complete at least 15 days prior to start construction of the project.~~

AQT-3

Verification: ~~At least 90 days prior to construction of the project, the~~ The project owner shall provide the District, the ARB and the CEC CPM copies of the federal PSD and Acid Rain permits no later than 30 days of their issuances.

AQT-5

B. Transient conditions shall not exceed the following durations:

1. Cold startup – ~~110~~108 minutes
2. Other startup – ~~80~~78 minutes
3. Shutdown – 30 minutes

AQT-9

Verification: At least ~~60~~120 days prior to construction of the turbine stacks, the project owner shall provide the District and CPM an "approved for construction" drawing showing the appropriate stack height and location of sampling ports and platforms. The

project owner shall make the site available to the District, EPA and CEC staff for inspection.

AQT-11

Verification: At least ~~60~~¹²⁰ days prior to construction of the turbine stacks, the project owner shall provide the District and CPM an “approved for construction” drawing showing the appropriate stack height and location of sampling ports and platforms. The project owner shall make the site available to the District, EPA and CEC staff for inspection.

AQT-13

The O.O. shall conduct all required compliance/certification tests in accordance with a District-approved test plan. Thirty (30) days prior to the compliance/certification tests the operator shall provide a written test plan for District review and approval. Written notice of the compliance/certification test shall be provided to the District ten (10) days prior to the tests so that an observer may be present. A written report with the results of such compliance/certification tests shall be submitted to the District within ~~forty-five~~ ⁽⁴⁵⁾sixty (60) days after testing.

Verification: The project owner shall notify the District and the CPM within ten ~~(10)seven~~ ⁽⁷⁾ working days before the execution of the source tests required in this condition. Source test results shall be submitted to the District and to the CPM within 60 days of the date of the tests.

AQT-16

Verification: At least ~~60~~¹²⁰ days prior to construction of the turbine stacks, the project owner shall provide the District and CPM, for approval, a detailed drawing and a plan on how the measurements and recordings, required by this condition, will be performed by the chosen monitoring system.

AQEG-5

Verification: At least ~~60~~¹²⁰ days prior to installation, the project owner shall provide the District and CPM an “approved for construction” drawing showing the appropriate hour timer. The project owner shall make the site available to the District, EPA and CEC staff for inspection.

AQEG-7

Verification: At least ~~60~~¹²⁰ days prior to installation, the project owner shall provide the District and CPM an “approved for construction” drawing showing the appropriate

hour timer. The project owner shall make the site available to the District, EPA and CEC staff for inspection.

AQFP-5

Verification: At least ~~60~~120 days prior to installation, the project owner shall provide the District and CPM an “approved for construction” drawing showing the appropriate hour timer. The project owner shall make the site available to the District, EPA and CEC staff for inspection.

AQFP-7

Verification: At least ~~60~~120 days prior to installation, the project owner shall provide the District and CPM an “approved for construction” drawing showing the appropriate hour timer. The project owner shall make the site available to the District, EPA and CEC staff for inspection.

Biological Resources

Discussion: Staff has a number of recommendations regarding this section of the PMPD. Most are in the nature of clarification. In addition, staff responds to the Applicant’s proposed revisions (filed June 3, 2008) to **BIO-12** that staff filed on May 15, 2008.

On page 166, header 5.a., “and Staging Areas” should be added after “a. Power Plant Site.” On page 174, in the second sentence of the last partial paragraph, “translocation plan, which will be part of the” should be added before “BRMIMP.” This plan will be a stand-alone document once approved by the CPM in consultation with the California Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (USFWS) in addition to being incorporated in the BRMIMP. (See **BIO-12**.) On page 171, staff recommends that the PMPD contain an explicit statement that no Incidental Take Permit is required for this project, due to the Energy Commission’s exclusion jurisdiction pursuant to Public Resources Code section 25500. On page 175 in the second sentence of the first full paragraph, delete “plant species grow in the same” and “that” because the subjects introduced in the previous sentence are habitats rather than individual species. On page 176, the PMPD reflects a typographical error in the Final Staff Assessment. The last sentence of the first full paragraph on that page should refer to Conditions of Certification **BIO-1** through **BIO-18**.

On page 183, Finding and Conclusion 3 should refer to the habitat compensation strategy, not plan, as there will not be a separate habitat compensation plan document. Similarly, in Finding and Conclusion 5, “measures” should replace “plans” and “also serve” should replace “be adequate” because only one species will have a separate plan document and this reflects that the mitigation accompanies the habitat compensation in

Finding and Conclusion 3. Finding and Conclusion 7 on the same page should be modified to replace "plans" with "measures" and "be adequate" with "also serve" because ephemeral drainages will not have a separate plan document.

Staff also recommends changes to the proposed Conditions of Certification. In the verification for **BIO-1**, on page 185, "90" should be replaced with "60" days. This time extension was previously recommended by staff in response to a request of the Applicant. (Exh. 211.) In **BIO-6**, item 4, on page 189, the reference to the USFWS Biological Opinion should be deleted; it is an error that was inadvertently included in the Final Staff Assessment. On page 190, in the Verification of **BIO-6**, the "60 days" in the first paragraph should be replaced with "45 days", and in the second paragraph, the "45 days" should be replaced with "30 days." This time extension was previously recommended by staff in response to a request of the Applicant. (Exh. 211.) Also on page 190, in the first paragraph of the Verification of **BIO-6**, **BIO-16** should be added to the list of conditions; this was an inadvertent omission in the Final Staff Assessment.

On page 195, in the Verification of **BIO-10**, please replace "60" with "45" days. This time extension was previously recommended by staff in response to a request of the Applicant. (Exh. 211.) On page 202, delete the last paragraph before the Verification, as it is not necessary. On page 205, begin the numbering within **BIO-15** with number 1. On page 209, in the last full sentence of the first paragraph, replace "DI" with "D1"; this appears to be a formatting error.

Finally, staff proposes the following changes to **BIO-12** on pages 197-201. Some of the changes are in response to the applicant's June 3, 2008 submittal and others are additional clarifications recommended by staff. In order to facilitate the review, we have offset the staff comments by indenting and italicizing within the Condition.

Desert Tortoise Impact Avoidance and Minimization Measures

BIO-12 The project owner shall incorporate all terms and conditions from the USFWS (2008a) Biological Opinion and the requirements identified in the ~~final~~ desert tortoise translocation plan submitted May 8, 2008, with the exceptions noted below in the Handling and Monitoring and Reporting sections, as well as subsequent plan revisions into the project's final BRMIMP.

It has become apparent that there may be several versions of the desert tortoise translocation plan. This amendment reflects that fact.

The BRMIMP will also include the mitigation measures identified in Biological Resources section 6.4 and Appendix H of the AFC (Victorville 2007a), responses to data

requests (ENSR 2007d), and the Draft Biological Assessment (ENSR 2007b) unless they conflict with terms and conditions required in the Biological Opinion, final desert tortoise translocation plan, below, or elsewhere in the conditions of certification. In the case of an apparent conflict in mitigation measures, the project owner shall prior to completion of the final BRMIMP notify the CPM, who will confer with USFWS and CDFG, and then clarify and resolve the differences.

The revised final desert tortoise translocation plan shall be resubmitted after the BRMIMP is approved by the CPM, and shall be consistent with the requirements of the approved BRMIMP and of this condition of certification. If there are additional changes to the BRMIMP affecting the desert tortoise translocation plan, the CPM may require modification and resubmittal of the desert tortoise translocation plan to reflect those changes.

The project owner shall ensure the following measures are implemented:

FENCING

1. Fence the construction areas and permanent facilities with desert-tortoise-proof fencing prior to mobilization in undeveloped areas. Gate(s) shall be desert tortoise proof as well. Gate(s) shall remain closed except for the immediate passage of vehicles. High use gate(s) will be maintained and have monthly examinations.
2. The fences will be maintained and checked on a daily basis to ensure the integrity of the fence is maintained. The Designated Biologist shall be present onsite to monitor construction and determine fence placement during fence installation.
3. Following fencing, a trained tortoise biologist shall search the interior and exterior of the fenced area areas for tortoises.
4. Temporary fencing during construction along roads shall be installed at the direction of the Designated Biologist, and a biological monitor shall be on call for wildlife issues. Limit fence encroachment into relatively undisturbed desert tortoise, Mohave ground squirrel, and burrowing owl habitat while minimizing the potential for animals becoming trapped on the road side of the fence. The applicant shall account for the fence encroachment acreage in the final habitat disturbance calculations and provide any resulting, additional compensation habitat that would be required. At road intersections, extend the main fence at right angles along the edge of the intersecting road for 30 feet to discourage desert tortoises from following the main fenceline from directly crossing the intersecting road.

HANDLING

5. Collection, holding, and translocation of tortoises shall comply with the Desert Tortoise Council (1994, revised 1999) handling protocol (i.e., Guidelines for Handling Desert Tortoises during Construction Projects prepared for the USFWS) that ensures their health and safety.
6. Tortoises shall be kept upright at all times and handled in a secure but gentle manner to minimize stress including the possibility of voiding the bladder.

Applicant recommended a change which would delete the requirement that the tortoises be kept upright. Staff recommends retaining the original text because it is part of CDFG's required language for an Incidental Take Permit (ITP). We agree that examining the underside of the tortoise is important, but CDFG and staff suggest this be done by having the permitted handler lift the animal in an upright position while another biologist records the data.

7. Tortoise burrows shall be excavated using hand tools under the supervision of the Designated Biologist. Excavations are permitted only ~~prior to 12:00 noon and~~ within the temperature guidelines established in the Biological Opinion. To prevent re-entry by a tortoise, all burrows in the construction zone that do not contain tortoises shall be collapsed.

Staff agrees with the Applicant's proposed change. A performance standard is sufficient to protect the animals.

8. Instruct all employees and contractors to look under vehicles and equipment for the presence of protected species prior to movement. No equipment will be moved until the animal has left voluntarily or it is removed by a biologist authorized to do so. Any time a vehicle is parked, the ground around and under the vehicle will be inspected for desert tortoises and other wildlife before the vehicle is moved.

The Applicant proposed adding language limiting inspection of vehicles to unfenced areas. Staff recommends retaining the original text due to the potential for tortoise to enter fenced area through holes in fences and gates inadvertently left open. This is not a time-intensive item and establishes a good habit for workers to avoid difficulties with distinguishing parts of the site where checks will/will not be done as well as possible oversights.

9. The Designated Biologist shall follow the Desert Tortoise Council guidelines for proper handling of desert tortoise. If a desert tortoise is observed in an active work area on the project site, whether above ground, or in a burrow, ~~or in an open trench~~, it will be left to move on its own.

Staff agrees with the Applicant's recommendation to delete the reference to trenches in this sentence.

If this does not occur within 15 minutes, the Designated Biologist can remove and relocate the tortoise into undisturbed habitat (i.e., at least 1,000 feet outside of the transmission line right-of-way, in a temporary holding area, or permanent translocation site). Desert tortoises that are found above ground or in a trench and need to be moved from harm's way shall be placed in the shade of a ~~large, marked~~ shrub and continually monitored to ensure their continued safety.

Staff agrees that the Applicant's proposed changes are appropriate with slight modifications.

All desert tortoises removed from burrows will be placed in an unoccupied burrow of approximately the same size as the one from which it was removed. If an existing burrow is unavailable, the Designated Biologist will construct or direct the construction of a burrow of similar shape, size, depth, and orientation as the original burrow.

Staff does not agree with the Applicant's proposal to add language here allowing placement of animals removed from burrows on the ground. Staff does not agree that finding a tortoise in a burrow would be unexpected, and recommend, along with the CDFG, that the existing language should be retained.

The project owner shall monitor desert tortoises moved during inactive periods for at least two days after placement in the new burrows to ensure their safety. The Designated Biologist will be allowed some judgment and discretion to ensure that survival of the desert tortoise is likely.

Notwithstanding the final desert tortoise translocation plan, submitted May 8, 2008, the following item shall be completed and reflected in the revised plan:

Staff recommends retaining its proposed language rather than using the Applicant's language, as it is a critical requirement and should be included in the Commission's decision, not in a plan approved by the Compliance Project Manager.

10. No desert tortoises shall be handled or moved prior to Energy Commission licensing of the project. Delete all references to handling or moving tortoises occurring on dates/months prior to this event in the translocation plan text and schedules. Change the schedule on page 27 of the plan (i.e., delete May and June) and other references throughout to reflect this limitation.

Staff agrees that the Applicant's proposed changes are appropriate with slight modifications, which make the proposed language more comprehensive than the language in the PMPD.

MONITORING AND REPORTING

11. Report all encounters with federally- or state-listed species to the Designated Biologist, who will record the following information for the monthly compliance report: (1) species name; (2) location (global positioning system coordinates, narrative and maps) and dates of observations; (3) general condition and health, including injuries and state of healing; (4) diagnostic markings, including identification numbers or markers; and (5) locations moved from and to.

Notwithstanding the final desert tortoise translocation plan, submitted May 8, 2008, the following items shall be completed and reflected in the revised plan:

Staff recommends retaining its proposed language rather than using the Applicant's language, as it is a critical requirement and should be included in the Commission's decision, not in a plan approved by the Compliance Project Manager.

12. Monitor survivorship of translocated tortoises for at least 18 months, and report the results in consultation with the CPM, CDFG, and USFWS. This work shall encompass monitoring in all four seasons and be timed to include two spring seasons. This will allow a meaningful assessment of spring emergence from burrows in consideration of the atypical fall

translocation time. References to the previous 12-month monitoring period shall be changed to 18 months throughout the plan.

Staff recommends retaining its proposed language. CDFG and staff maintain that two spring assessments are needed to assess survival and that this language is consistent with other current monitoring regimes overseen by CDFG. The applicant may time the beginning of monthly survivorship monitoring later than the initial translocation date to encompass only 18 monitoring sessions while ensuring two spring seasons (e.g., following initial, more frequent monitoring, start monthly monitoring in November 2008 and conclude in April 2010).

13. Tortoises fitted with transmitters shall be monitored at least every other week ~~because most movement will likely occur shortly~~ during the active seasons, and more frequently, as needed, following release and following hibernation after release ~~due to unfamiliarity with the new location~~. Once tortoises become more established or are moving shorter distances such that they are less likely to be lost, the frequency of monitoring can be changed to monthly. Approval of any change in monitoring frequency will be acquired from appropriate agencies monthly. Following translocation and a planned telemetry survivorship monitoring period of at least 18 months, transmitters shall be removed (~~page 25 of plan~~).

Staff agrees that the Applicant's proposed changes are appropriate with slight modifications, which clarify that the purpose of the monitoring period is to assess survivorship.

14. All other desert tortoises observed or encountered while tracking translocated tortoises will be ~~marked with identifying numbers and processed for~~ recorded, but not handled, and general health parameters and identifying features (e.g., sex, size, distinguishing marks/scars) will be noted. Their location using GPS will also be recorded. All translocated animals found during a dawn to dusk search will be monitored ~~between September 2008 and April 2010~~ for at least 18 months, after which transmitters will be removed. If ~~animal~~ translocated desert tortoises are not located in the one-day monitoring, continue searching until they are located. This might require multiple days depending on the ease or difficulty in locating the animals (~~page 48 of plan~~).

Staff agrees that the Applicant's proposed changes are appropriate with slight modifications to provide examples of identifying features.

TRANSLOCATION SITE

15. The translocation site selected shall support suitable desert tortoise habitat, including appropriate cover and forage.
16. No sensitive biological resources, including other special-status species sensitive habitats or unique vegetation assemblages, shall be disturbed during translocation activities and site preparation, such as artificial/nest burrow installation and juvenile desert tortoise release pen construction.
17. Existing roads or pedestrian access where roads are lacking shall be used to transport desert tortoises to the translocation site and monitor translocation success.

Verification: At least 30 days prior to the start of any site or related facilities mobilization activities, the project owner shall incorporate the associated terms and conditions of this condition of certification into the project's BRMIMP, and implement them.

Cultural Resources

Discussion: Staff recommends several changes to improve the wording of the discussion of cultural resources.

First, on page 230, in the last sentence of the first full paragraph, the reference to "in 1885" can be deleted. (Exh. 200, p. 4.3-17.) Second, on page 231, the word "line" is missing from the first sentence after "San Bernardino-Boulder 11-kV transmission." Third, staff recommends deletion of the comma after the acronym "CHRIS", as well as the use of "one-mile radius" rather than "one mile radius" in the first sentence of the last paragraph on page 231.

In the second full paragraph on page 232, staff suggests adding "(the Applicant's cultural resources consultant)" after "Correspondence between WSA" in order to clarify the acronym. On page 233, the second sentence of the third full paragraph contains a superfluous "was." Finally, staff recommends the following edits to the fourth full paragraph on page 233 in order to reflect the research results summarized in Exh. 200, p. 4.3-23 and on Cultural Resources Table 4:

~~No Sixteen~~ archaeological sites had been previously recorded in the survey areas for the corridors proposed for reclaimed water and wastewater pipelines, and for the three segments of the transmission line. Only two were relocated, and neither was eligible for the CHRH due to loss of integrity. The Applicant's surveyors recorded four new archaeological sites within the ~~linear pipeline~~ corridor; a prehistoric campsite composed of one mortar bowl fragment and two chert flakes, and three ~~are~~ historic-period refuse scatters. When recorded, the prehistoric site was described as highly disturbed, with a deep erosional cut through the middle of the site, leading the recorders to conclude that the artifacts were in a secondary context which did not represent an intact cultural deposit. (Ex. 32, p. 23) New surveys along Transmission Line Segments 2 and 3 contain identified only sites of scattered historic-period refuse, old roads or rail lines. The Applicant's evaluation of these sites was that none met the criteria for CRHR eligibility, and all lacked integrity of location and materials. (Ex. 200, p. 4.3-32)

With respect to the Conditions of Certification, staff notes that the changes agreed to and identified in Exhibit 205 do not appear in the PMPD. These changes should be incorporated into the final decision for this project. Finally, staff also recommends that an additional change be made to the last Verification clause of CUL-9. Staff recently obtained information that the Library of Congress is no longer accepting all submittals of Historic American Engineering recordations, making it inappropriate to require the Applicant to provide verification of the acceptance by the Library of Congress of the HAER documents that will be produced as a result of CUL-9. Staff recommends adding "if accepted" to the last sentence of the Verification for CUL-9.

Hazardous Materials Management

Discussion: In its Prehearing Conference Statement, the applicant proposed a wording change to Appendix B from HAZ-1 to the Conditions of Certification. At the Prehearing Conference, staff agreed, subject to one additional change. This is reflected in Exhibit 212. (See also, 4/1/08 RT, p. 9, lines 10-24.) However, the PMPD contains no Appendix B. Similarly, the PMPD also omits Attachments A, B, and C, from HAZ-9. These should be included in the final decision for this project.

In addition, staff agreed to the applicant's request to delete the reference to a vulnerability assessment in the verification to HAZ-9. This change is also reflected in Exhibit 212 and at 4/1/08 RT, p. 9, lines 1-7. However, the PMPD contains the language staff agreed to omit.

Land Use

Discussion: The Conditions of certification in the PMPD apply to the Colusa Generating Station Project, not the Victorville 2 Hybrid Power Project. The following Conditions of Certification should be substituted for those in the PMPD:

LAND-1 The project owner shall design and construct the project in accordance to the standards found in the M2 Zone (“Industrial”) of the Victorville Municipal Code (Chapter 18.44.070) which includes the following:

- No minimum lot size, width, depth, and yard area;
- Off-street parking and loading spaces shall be provided as stipulated;
- Signage requirements;
- Loading requirements;
- Lighting requirements; and
- Fencing requirements.

Verification: At least 90 calendar days prior to the start of construction, including any grading or site remediation on the power plant project site or its associated easements, the project owner shall submit the proposed development plan to the city of Victorville Planning Department for review and comment and to the CPM for review and approval. The project owner shall also provide the CPM with a copy of the transmittal letter to the city of Victorville.

At least 30 calendar days prior to the start of construction, the project owner shall provide copies of any comment letters received from the city of Victorville, along with any changes to the proposed development plan, to the CPM for review and approval.

LAND-2 The project owner shall adjust the boundaries of all parcels or portions of parcels that constitute the Victorville 2 project sites as necessary to merge all properties into a single parcel, under single ownership, within the city of Victorville jurisdiction, in accordance with provisions and procedures set forth in the city of Victorville’s Municipal Code, Title 17 (Subdivision Ordinance).

Verification: At least 30 days prior to construction of the Victorville 2 project, the project owner shall submit evidence to the CPM, indicating approval of the merger of parcels by the city of Victorville. The submittal to the CPM shall include evidence of compliance with all conditions and requirements associated with the approval of the Certificate of Merger and/or Notice of Lot Line Adjustment by the city. If all parcels or portions of parcels are not owned by the project owner at the time of the merger, a

separate deed shall be executed and recorded with the County recorder, as required by Municipal Code §§17.92. A copy of the recorded deed shall be submitted to the CPM, as part of the compliance package.

Noise and Vibration

Discussion: This Section of the PMPD contains a mistake. On page 302, in **NOISE-4**, the word “solely” should be added in the third line after “cause noise levels due.” This correction was noted in Exh. 206.

Public Health

No comments.

Socioeconomic Resources

Discussion: This section of the PMPD contains a mistake. On page 307, in the last sentence and on Table 1 on page 309, the correct number of construction (average) jobs should be 367, not 376. (See Exh. 200, p. 4.8-5.)

Soil and Water Resources

Discussion: Staff recommends that several clarifications to this section. Specifically, on page 213, the language should be modified to reflect the appropriate agencies involved in the provision of water to the project. (Exh. 200, p. 4.9-15.) The first full sentence should be modified to read as follows:

Victorville Water, a division of the city of Victorville, which operates the area’s domestic groundwater supply system, would provide ~~both~~ the potable groundwater. ~~and~~ Recycled water supplies for Victorville 2 would be supplied by Victor Valley Water Reclamation Authority (VWRA).

In addition, on page 214, staff recommends the following modification based on the Commission decision certifying the High Desert Power Project and on our discussion in Exhibit 200 at page 4.9-34:

VWRA is increasing its production of recycled water. Any excess is discharged to the Mojave River. The nearby High Desert Power Plant (HDPP), which currently uses California Water Project water, in conjunction with an aquifer storage and recovery program, is anticipated to begin ~~may be the subject of an amendment to allow~~ the use of VVWD recycled water in the near future.

Staff notes that the word “of” in the last sentence of the first full paragraph on page 215 should be deleted. Finally, staff recommends that Findings and Conclusions 2 and 3 be

supported by a discussion in the body of the decision . Specifically, Finding and Conclusion 2 should be based on an identification of state water policy and an examination of how the project complies with that policy. Similarly, Finding and Conclusion 3 should reference a discussion of the Memorandum of Understanding between the Victor Valley Water Reclamation Authority and the California Department of Fish and Game as well as an explanation of the relevance of that MOU to conclusions about project impacts on Mojave River recharge from the VVWRA facility.

Traffic and Transportation

Discussion: The PMPD does not reflect the actual language of the FAA determination being discussed. Staff recommends that Finding and Conclusion 5 on page 322 be amended such that the phrase, "with the condition that no project structure exceeds 145 feet above ground level" is added to the end of the sentence.

Transmission Line Safety and Nuisance

No comments.

Visual Resources

Discussion: Staff and the applicant agreed that subdivision D should be deleted from VIS-1, but this is not reflected in the PMPD. (Exh. 208, 4/1/08 RT, p. 15, lines 24-25 – p. 16, lines 1-4.)

Waste

No comments.

WS&FP

No comments.

Engineering Assessment Comments

Facility Design

Discussion: The discussion on the role of the CBO should be clarified. Specifically, on page 49, the third line, the words "that could be difficult to reverse or correct", should be added after "subject to CBO review." In addition, Although staff agreed with applicant's request (found in its Prehearing Conference Statement) to modify GEN-1 to use the same language as in the final decision for the Colusa Generating Station Project (4/1/-08 RT, p. 13, lines 6-11), the PMPD does not reflect this agreement

Geological and Paleontological Resources

No comments.

Power Plant Efficiency:

Discussion: the description of the project should be clarified. On page 72, in Finding and Conclusion 1, Staff recommends that the Committee change "two combined-cycle power trains" to "a two-on-one combined-cycle power train."

Reliability

No comments.

Transmission system engineering

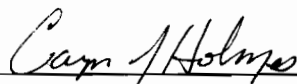
Staff has no comments to make on the Transmission System Engineering section, but notes that the Interconnection Facilities Study Report, prepared by the California Independent System Operator, was filed with the Energy Commission on June 10, 2008. A staff witness will be available at the June 17 hearing to sponsor the document, should the Committee wish it to be entered into the record.

Compliance

Discussion: The PMPD references the wrong compliance project manager. On page 32 of the PMPD, Steve Munro should be changed to Mary Dyas.

Date: June 13, 2008

Respectfully submitted,



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

APPLICATION FOR CERTIFICATION
FOR THE VICTORVILLE 2
HYBRID POWER PROJECT

Docket No. 07-AFC-1
PROOF OF SERVICE
(Revised 5/30/08)

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:

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DECLARATION OF SERVICE

I, Chester Hong, declare that on , I deposited copies of the attached **Staff Comments on PMPD** 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.


CHESTER HONG