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August 5, 2008

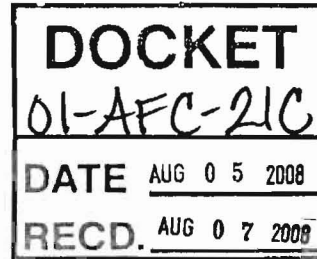
Mr. Jack Caswell
Compliance Siting Project Manager
Systems Assessment and Facilities Siting Division
California Energy Commission
1516 9th Street, MS 15

Re: Midway Power Tesla Power Plant Project - Pipe Installation in
Mountain House, CA

Dear Mr. Caswell:

I am writing on behalf of Midway Power, LLC. As you know, the California Energy Commission (Commission) certified the application by Midway Power, LLC (Midway) for the Tesla Power Plant, a 1,120-megawatt natural gas power plant proposed for construction in eastern Alameda County near the border with San Joaquin County, on June 16, 2004. The approved project design calls for an 11-mile long pipeline from the City of Tracy's wastewater treatment plant which will supply cooling tower water for the project. Approximately one year ago a 215 foot section of the pipeline was installed underneath Grant Line Road within the community of Mountain House. The portion of the pipeline was installed without notification to the Commission. We have recently determined that notification should have been provided to the Commission prior to installation of this portion of the pipeline because it is a related or linear facility subject to the Commission's oversight. Below we describe the circumstances surrounding the installation of the 215 foot portion of the pipeline and our need to address an additional 2,000 foot portion also located within the community of Mountain House.

Pursuant to the Commission's Decision approving the Tesla Project, the reclaimed water pipeline will originate from the northwest corner of the Tracy Waste Water Treatment Plant and will travel 11 miles (17.6 km) following a route roughly west and south to the Tesla Power Plant. Approximately at the midway point, the pipeline will be directed on a southerly alignment along San Jose Road to the road's terminus at the Southern Pacific railway tracks, cross under the railway and head west on Grant Line Road to the Delta Mendota Canal and subsequently to the Tesla Power Plant. The Grant Line Road east/west corridor between the Southern Pacific railway tracks and the Delta Mendota canal bisects an area known as Mountain House, formerly a small community west of the City of Tracy, which is now under the jurisdiction of the Mountain House Community Services District (Mountain House CSD).



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Mr. Jack Caswell
August 5, 2008
Page 2

In June of 2005, the Mountain House CSD certified an Environmental Impact Report ("EIR") for the College Park development project. The EIR contemplated, among other things, the necessity for widening and major improvements of Grant Line Road from 2 to 4 lanes as a mitigation measure to avoid the need to further widen I-205. The EIR identifies this requirement as applying to the over 8000 feet of Grant Line Road that runs through the proposed College Park development. Mitigation measures for the widening project include consultation with the Central Valley Regional Water Quality Control Board for a Clean Water Act section 401 water quality certification and compliance with the General NPDES permit for storm water associated with construction activities including the requirement to prepare a storm water pollution prevention plan.

During the summer of 2005, Midway representatives were preparing a bid in response to the 2005 PG&E RFO. As part of its preparation for the RFO, Midway met with officials at San Joaquin County. Near the end of that meeting, a San Joaquin official volunteered that Midway should meet with Mountain House officials to discuss the reclaimed water pipeline, as there was a major construction project taking place there. San Joaquin County revealed that it had no jurisdiction over the Mountain House section of the pipeline.

Midway was unaware of the existence of the road construction project. We understand Mountain House CSD was equally unaware of Midway and the Tesla Project. Midway met with Mountain House officials shortly thereafter. In that meeting, Midway was told that road construction was about to take place, and that Midway must build in its pipeline as an integrated part of the construction or lose its ability to construct through the road for at least five years. Mountain House claimed that it planned to hold a lengthy moratorium on all construction through the Grant Line Road expansion once it was paved.

Mountain House required the pipeline to be installed by Mountain House's developer and the developer's construction company. Midway was given no schedule flexibility. Contract arrangements were made through these companies to reimburse PCCP (the developer) for pipeline installation of approximately 215 feet on a cost plus basis.

In May/June 2007, an approximately 215 foot section of pipeline was installed under the newly-expanded Mountain House Parkway, at the intersection of the Parkway and Grant Line Road. Midway reimbursed PCCP for the work it completed.

Approximately 7250 feet of pipeline remain to be installed within the jurisdiction of the Mountain House CSD. Although the developer stopped work due to the housing crisis, the developer agreed with Mountain House to complete another 2000 feet of the roadway project in 2008. To date, Midway believes the remaining work has not been scheduled for completion.

On June 19, 2008, plan checks were completed for the 2000 feet of pipeline to be installed under Grant Line Road, and Mountain House has signed off on those plans. There have been some schedule delays. PCCP has informed us that the installation schedule for the

Mr. Jack Caswell

August 5, 2008

Page 3

2000 feet of water line will not be finalized until the second half of August. There is the potential that the water line installation may be deferred until the spring of 2009. We will keep you apprised of developments. This work will be performed in accordance with the mitigation measures imposed by Mountain House CSD.

Midway regrets that prior notice of the installation of these portions of the pipeline was not provided to the Commission. No other portion of the pipeline is scheduled to be installed, nor will it be except in compliance with the Commission's preconstruction conditions. In light of the extenuating circumstances, Midway requests confirmation that the remainder of the pipeline required by Mountain House may be installed, provided all conditions applicable to that portion of the pipeline are complied with during construction and requests the Commission confirm that Midway will not be held in violation of the Conditions of Certification concerning the 215 foot section that has already been installed. Midway appreciates Commission's review and assistance regarding this issue.

We will appreciate the opportunity to meet with you at your convenience to discuss these issues further.

Sincerely,



Peter H. Weiner

of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: Mr. Terry O'Brien
Mr. George Knapp
Mr. Scott Galati