

CALIFORNIA ENERGY COMMISSION

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May 15, 2009

DOCKET**01-AFC-18C**DATE May 15 2009RECD. May 15 2009

Mr. David Warner
Director of Permit Services
San Joaquin Valley Unified Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93726

**Re: Comments on Preliminary Determination of Compliance
Henrietta Combined-Cycle Power Plant Project (01-AFC-18)**

Dear Mr. Warner,

Energy Commission staff have reviewed the San Joaquin Valley Air Pollution Control District's (SJVAPCD or District) Preliminary Determination of Compliance (PDOC) for the GWF Henrietta project and have the following comments for your consideration to include in the Final Determination of Compliance (FDOC).

Comments on Regulatory Compliance Issues

Energy Commission staff, pursuant to both the Warren-Alquist Act and the California Environmental Quality Act (CEQA), must determine whether the facility is likely to conform with applicable laws, ordinances, regulations, and standards, and whether mitigation measures can be developed to lessen potential impacts to a level of insignificance. These determinations will be difficult without additional information from the District regarding the PDOC.

Rules 2201 and 2301, New Source Review and Offsets

The PDOC explains that by proposing to reduce potential emissions of nitrogen oxides (NOx), no offsets would be required for the project-related NOx emissions (PDOC p. 48). However, the project proposes to increase the potential emissions of particulate matter (PM10). SJVAPCD Rule 2201 requires offsets for these pollutants at the permitted emission levels. The PDOC proposes to allow "surplus" NOx offsets to satisfy Rule 2201 Offset Requirements for PM10 (p. 48). This raises questions as to whether the NOx offsets [or emission reduction credits (ERCs)] that were surrendered for the original Henrietta Peaker Plant (HPP) project were completely consumed by the original permitting action, and if surplus offsets do exist today, how the NOx ERCs should be valued?

For another siting case, namely the original Tracy Peaker Project (TPP), the SJVAPCD

has found that the ERCs, surrendered to permit sources in 2003, are now invalid.¹

GWF has surrendered SOX ERC's for the sole purpose of meeting staff's recommended PM10 and SOx CEQA mitigation requirements for HPP2. These ERC's are above and beyond the District's offset requirements.

For the Final Determination of Compliance we request the following information from the District:

Please state whether the above mentioned ERC's could be used by the District in place of the NOx ERC's to satisfy the PM10 offset requirements. It is staff's opinion this would avoid potential Rule 2201 compliance issues for the project.

Please clarify whether the ERCs surrendered by GWF to meet District offset requirements (or CEQA mitigation) for the HPP in 2002 were made invalid by their surrender.

Please identify (by certificate numbers) which of the ERCs that were originally provided for the HPP project are currently considered in the PDOC to be "surplus."

Please identify (by certificate numbers) which NOx ERCs would be used to satisfy the project's compliance with Rule 2201 Offset Requirements for PM10.

Please state whether the project's compliance with Rule 2201 Offset Requirements for PM10 relies upon NOx ERCs. These ERC's need to be adjusted to become consistent with applicable air district, state, and/or federal rules, and/or planning requirement (per Rule 2301, Section 6.7), including Reasonable Further Progress or requirements for Reasonably Available Control Technology (RACT).

Please state, if the values of the NOx ERCs need adjustment or whether there are sufficient offsets, post-adjustment, to satisfy the PM10 requirements.

Please state whether the project's compliance with Rule 2201 Offset Requirements for PM10 relies upon NOx ERCs that are or were subject to the annual equivalency demonstration in Rule 2201 Section 7, and if so, how the equivalency demonstration affects or affected the NOx ERCs.

The PDOC (p. 48) states that by reducing the NOx potential-to-emit: "GWF Henrietta had the option to re-bank the ERCs that they originally provided, but the PDOC does

¹ The statement that ERCs become invalid upon surrender is made by the SJVAPCD in its letter to GWF Energy dated April 16, 2003 regarding the Tracy Peaker Power Plant (01-AFC-16).

not explain how "re-banking" could occur under SJVAPCD Rule 2301, Section 4.3. The term "re-bank" does not appear in Rules 2201 or 2301. If Rule 2301, Section 4.3 is being used to bank offsets "... pursuant to Section 4.2 . . .," then it is not clear how this project would satisfy Section 4.2, which requires emission reductions to be "real" before they are eligible for banking. The PDOC (pp. 31-32) states that the HPP pre-project actual emissions of NOx are around 5,800 lbs/yr. Thus, the existing HPP has almost no notable actual emissions that may be eligible for banking as real emission reductions.

By introducing a strategy to "re-bank" ERCs, the PDOC implies that SJVAPCD awards ERCs for shutting down essentially non-operational sources.

For the Final Determination of Compliance we request that the District please clarify whether any new ERCs are being created by the proposed project and describe whether any real emission reductions are occurring.

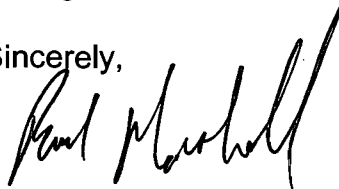
Comments on FDOC Conditions

Gas Turbine Conditions 38, 43-45 – VOC Annual Emission Limit Compliance

The District has used, as proposed by the applicant, an average VOC emission concentration (0.8 ppm) that is lower than the short-term maximum BACT VOC emission concentration limit (2.0 ppm) to determine the annual VOC emissions. Currently, the District conditions do not identify how compliance with the annual VOC emission limit, based on the lower concentration value, will be demonstrated. Staff believes that a notation should be added to the annual emission Condition 38 or the source test Condition(s) 43-45 should be provided to note that the annual source test data will be used to show compliance with the annual VOC limit specified in Condition 38.

We appreciate the District working with Energy Commission staff on this licensing case. If you have any questions regarding our comments, please contact Keith Golden at (916) 653-1643. We look forward to discussing our comments in further detail with you.

Sincerely,



Paul Marshall, Acting Manager
Environmental Protection Office
Siting, Transmission and Environmental
Protection Division

CC: Docket (08-AFC-07)
Proof of Service List
California Air Resources Board
U.S. Environmental Protection Agency, Region IX