

<b>DOCKET</b>	
<b>09-AFC-3</b>	
DATE	_____
RECD.	SEP 23 2010

Robert Sarvey  
501 W. Grantline Rd.  
Tracy, ca. 95376

State of California  
State Energy Resources Conservation and Development Commission

In the Matter of:	)	Docket # 09-AFC-03
	)	
Mariposa Energy Project	)	Issues Statement
	)	Robert Sarvey
	)	
_____	)	

Introduction

Pursuant to the Committee Status Conference and Order dated September 13, 2010, the following is Robert Sarvey’s recommendation on the preparation of a Preliminary Staff Assessment a Final Staff Assessment , and a project schedule.

Preliminary and Final Staff Assessment

This project involves many complicated issues. The project is located in the BAAQMD but the emissions impact the San Joaquin Valley. The project is located near the Byron airport and aviation issues may need to be adjudicated. The project is located in a sensitive area for biological resources and the mitigation must be developed. There are land use issues as the project is being located in an area preserved for agriculture and open space as decided by the voters of Alameda County with the passage of Measure D. Alternatives exist both for the project location, the project equipment and also the generating technology. Worker Safety and fire protection will also be a prominent issue. This is not a project that is unopposed and there are several interveners and more should be expected. Other issues may exist after the issuance of the Preliminary Staff Assessment and the parties will need ample time to resolve their differences.

I would propose two workshops after the issuance of the PSA. After that the Staff should be able to issue a Final Staff Assessment if and only if the FDOC has been issued for obvious reasons. Previously the CEC hearing office has opined that a Final Staff Assessment is unnecessary.

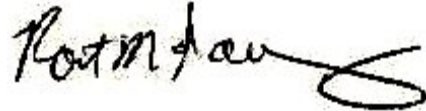
The FSA operates as the equivalent of an environmental impact report under the California Environmental Quality Act. (City of Morgan Hill vs. the BAAQMD (2004) 118 Cal.App.4<sup>th</sup> 861, 867, 878, see also Public Resources Code Section 21080.5, subd. (a) [Exemption from CEQA for Certified Regulatory Programs] Despite the legal requirements to issue an FSA there are practical reasons for the Commission to follow the PSA, FSA, PMPD sequence. Generally a Staff Assessment and a Revised Staff Assessment format have been utilized only in SPPE cases where a mitigated negative declaration is issued by the Commission. Where there is a lot of controversy and interveners the more formal and established PSA and FSA issuance should be utilized as it allows the parties more time to identify and agree on disputed issues and it reduces hearing time and preserves other scarce Commission resources. In a case such as this where the nearest municipality and possibly the airport land use commission oppose the project more opportunities for dialogue and public participation enhance the final decision.

#### Proposed Schedule

For the most part I think Staff's August 23<sup>rd</sup> proposed schedule is workable. The FSA should not be issued before the FDOC which may lead in a delay to the proposed schedule. Allowing only one month for the Committee to make a decision on all of the complicated issues in this project may be inadequate. I propose the following schedule.

<b>Activity</b>	<b>Date</b>
<b>Staff files Staff Assessment (SA)</b>	<b>October 20, 2010</b>
<b>Staff Assessment workshop</b>	<b>November 3, 2010</b>
Second staff Assessment Workshop	November 16, 2010
Final Determination of Compliance	TBD
<b>Staff Final Staff Assessment</b>	<b>December 20, 2010</b>
Evidentiary hearings	January 11- 12, 2010
(PMPD)	March 16, 2011
Committee Hearing on PMPD	April 8, 2011
Close of public comment period on PMPD	April 18, 2011
Addendum/Revised PMPD	April 30, 2011
Energy Commission Decision	May 6, 2011

Respectfully Submitted,




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**Robert Sarvey**

**DECLARATION OF SERVICE**

I, Robert Sarvey, declare that on September 23, 2010, I served and filed copies of the attached Issue Statement. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[\[http://www.energy.ca.gov/sitingcases/mariposa/index.html\]](http://www.energy.ca.gov/sitingcases/mariposa/index.html).

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

sent electronically to all email addresses on the Proof of Service list;  
 by personal delivery or by depositing in the United States mail at Sacramento, CA. with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

**AND For filing with the Energy Commission:**

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

**OR**

depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

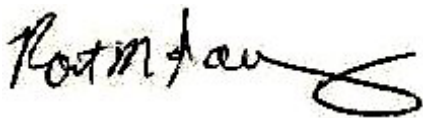
Attn: Docket No. 09-AFC-3

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct.



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Robert Sarvey



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)

**APPLICATION FOR CERTIFICATION  
FOR THE *MARIPOSA ENERGY PROJECT*  
(MEP)**

***Docket No. 09-AFC-3***

***PROOF OF SERVICE***  
(Revised 2/8/2010)

**APPLICANT**

Bo Buchynsky  
Diamond Generating Corporation  
333 South Grand Avenue, #1570  
Los Angeles, California 90071  
[b.buchynsky@dgc-us.com](mailto:b.buchynsky@dgc-us.com)

**APPLICANT'S CONSULTANTS**

Doug Urry  
2485 Natomas Park Dr #600  
Sacramento, CA 95833-2975  
[Doug.Urry@CH2M.com](mailto:Doug.Urry@CH2M.com)

**COUNSEL FOR APPLICANT**

Gregg Wheatland  
Ellison, Schneider & Harris L.L.P.  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816-5905  
[glw@eslawfirm.com](mailto:glw@eslawfirm.com)

**INTERESTED AGENCIES**

California ISO  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

**INTERVENORS**

Mr. Robert Sarvey  
501 W. Grantline Road  
Tracy, California 95376  
[Sarveybob@aol.com](mailto:Sarveybob@aol.com)

\*Rajesh Dighe  
395 W. Conejo Avenue  
Mountain House, California 95391  
[dighe.rajesh@gmail.com](mailto:dighe.rajesh@gmail.com)

Morgan K. Groover  
Development Director  
Mountain House Community  
Services District  
230 S. Sterling Drive, Suite 100  
Mountain House, CA 95391  
[mgroover@sjgov.org](mailto:mgroover@sjgov.org)

**ENERGY COMMISSION**

JEFFREY D. BYRON  
Commissioner and Presiding Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

\*ROBERT B. WEISENMILLER  
Commissioner and Associate Member  
[rweisenm@energy.state.ca.us](mailto:rweisenm@energy.state.ca.us)

Kenneth Celli  
Hearing Officer  
[kcelli@energy.state.ca.us](mailto:kcelli@energy.state.ca.us)

Kristy Chew  
Advisor to Commissioner Byron  
[kchew@energy.state.ca.us](mailto:kchew@energy.state.ca.us)

Craig Hoffman  
Siting Project Manager  
[choffman@energy.state.ca.us](mailto:choffman@energy.state.ca.us)

Kerry Willis  
Staff Counsel  
[kwillis@energy.state.ca.us](mailto:kwillis@energy.state.ca.us)

\*Jennifer Jennings  
Public Adviser  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

\*indicates change