

# Memorandum

To: Chairman Karen Douglas, Presiding Member  
Commissioner Anthony Eggert, Associate Member

Date : November 17, 2010

Telephone: (916) 654-4640

From : **California Energy Commission** – Felicia Miller  
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<b>DOCKET</b>	
<b>09-AFC-2</b>	
DATE	<u>11/17/10</u>
RECD.	<u>11/17/10</u>

Subject: **Almond 2 Power Plant Project (09-AFC-2)**  
**Staff's Comments on Presiding Member's Proposed Decision (PMPD)**

Staff has reviewed the PMPD, including the Conditions of Certification and would like to submit the following comments for consideration by the Committee.

## **INTRODUCTION**

p. 3, top

A license issued by the Commission is in lieu of other state and local permits, as well as federal permits to the extent allowed by law.

## **PROJECT DESCRIPTION**

p. 7, first full ¶

Thus, TID is the lead agency for the Hughson-Grayson project and in that role it has prepared several CEQA-required environmental documents and distributed them for public review.

[Update EIR status of Hughson-Grayson project, per Applicant.]

## **PROJECT ALTERNATIVES**

Staff has no comments.

## **COMPLIANCE AND CLOSURE**

Staff has no comments.

## **FACILITY DESIGN**

Staff has no comments.

## **POWER PLANT EFFICIENCY**

Staff has no comments.

## **POWER PLANT RELIABILITY**

Staff has no comments.

## **TRANSMISSION SYSTEM ENGINEERING**

p. 8, ¶ 2

Even so, the evidence establishes that no mitigation is required for these marginal line overloads because the overloads occur only during summer off-peak conditions and with the **Almond Combustion Turbine (Almond CT)** turned on.

[To clarify first reference.]

p. 10, first full ¶

TID has prepared three environmental impact documents for the Hughson-Grayson project and made publicly available. (*Id.*)

[Update EIR status of Hughson-Grayson project, per Applicant.]

p. 18, last sentence

4. ~~refer to requirements of~~ Fulfill verification requirements of GEN-8, as follows:

Within 15 days of the completion of any work, the project owner shall submit to the CBO (a) a written notice that the completed work is ready for final inspection, and (b) a signed statement that the work conforms to the final approved plans. After storing the final approved engineering plans, specifications, and calculations described above, the project owner shall submit to the CPM a letter stating both that the above documents have been stored and the storage location of those documents.

Within 90 days of the completion of construction, the project owner shall provide to the CBO three sets of electronic copies of the above documents at the project owner's expense. These are to be provided in the form of "read only" files (Adobe .pdf 6.0), with restricted (password-protected) printing privileges, on archive quality compact discs.

[To clarify Condition.]

## **TRANSMISSION LINE SAFETY AND NUISANCE**

Staff has no comments.

## **GREENHOUSE GAS EMISSIONS**

p. 7, Table 3, last row and Notes

**Estimated Annualized GHG Performance (MTCO<sub>2</sub>/MWh) 0.510<sup>c</sup>**

c. Value depends only on heat rate and fuel type and is independent of annual hours of operation.

[Staff request to add reference and footnote.]

p. 11, ¶ 2

As such, the A2PP is a needed, nonrenewable generating resource. The proposed simple-cycle LM6000PG gas turbines for A2PP provide TID with quick starting and fast ramping power that would be much more likely to foster integration of renewable energy than comparable non-renewable base load or intermediate energy resources. (Ex. 300, p. 4.1-71). Almond 2 would provide flexible, dispatchable power necessary to integrate some of the growing generation from intermittent renewable sources, such as wind and solar generation. (Ex. 300, p. 4.1-76).

[To make statement consistent with Staff Assessment.]

p. 12, Findings of Fact

9. The EPS in SB 1368 is the only LORS that limits power plant GHG emissions.

10. The A2PP project slightly exceeds the EPS of 0.500 MTCO<sub>2</sub>/MWh with a rating of ~~0.45~~0.510 MTCO<sub>2</sub>/MWh, but the project is designed and intended to provide electricity at an annualized plant capacity factor of less than 60 percent.

p. 13, Findings of Fact

13. Even as more renewable generation is added to the California electricity system, gas-fired power plants such as the A2PP will be necessary to meet local capacity requirements and to provide intermittent generation support, grid operations support, extreme load and system emergencies support, and general energy support.

## **AIR QUALITY**

p. 1, replace ¶ 2

~~We specifically evaluate air quality impacts under the CEQA Guidelines, which identify significance criteria to determine whether a project will: (1) conflict with or obstruct implementation of the applicable air quality plan; (2) violate any air quality standard or contribute substantially to an existing violation; (3) result in a cumulatively considerable net increase of any criteria pollutant that is already in nonattainment; (4) expose sensitive receptors to substantial pollutant concentrations; or (5) create objectionable odors affecting a substantial number of people. (Cal Code Regs., tit. 14, § 15000 et seq., Appen. G.) The Guidelines note that the significance criteria established by the applicable Air District may be applied in a significance determination under CEQA review. (Ex. 301, p. 5.1-20.)~~

Staff characterized air quality impacts as follows: All project emissions of nonattainment criteria pollutants and their precursors (NO<sub>x</sub>, VOC, PM<sub>10</sub>, PM<sub>2.5</sub>, SO<sub>x</sub>, and NH<sub>3</sub>) are considered significant and must be mitigated. For short-term construction activities that essentially cease before operation of the power plant, Staff assessment is qualitative and mitigation consists of controlling construction equipment tailpipe emissions and

fugitive dust emissions to the maximum extent feasible. For operating emissions, the mitigation includes both the Best Available Control Technology (BACT) and emission reduction credits (ERC) or other valid emission reductions to offset emissions of both nonattainment criteria pollutants and their precursors.

The ambient air quality standards used by Staff as the basis for characterizing project impacts are health-based standards established by the California Air Resources Board and U.S. EPA. They are set at levels that contain a margin of safety to adequately protect the health of all people, including those most sensitive to adverse air quality impacts such as the elderly, persons with existing illnesses, children, and infants.

[To make consistent with the Staff Assessments. When evaluating Air Quality impacts, Staff follows significance criteria and a method of analysis established by Energy Commission, rather than significance criteria of the applicable air district or the outline of CEQA Guidelines Appendix G. Suggested language is from Ex. 300, 4.1-17 (also Ex. 301, 4.1-18), identifying Staff's method and threshold for determining significance.]

p. 11, ¶ 1

As shown, construction will not cause new violations of NO<sub>2</sub>, CO, SO<sub>2</sub>, or ambient air quality standards or contribute to existing violations.

p. 14, ¶ 3

Thus, the secondary impacts of ammonia are potentially significant and also require mitigation.

p. 16, replace end of first ¶ under chart

~~The District's offset ratio is in accord with Commission policy as established by the precedential Avenal the Avenal Energy Plant Project (08-AFC-1),<sup>6</sup> recognizing the necessity of reducing emission reductions for all nonattainment pollutants and their precursors at a minimum overall one to one ratio. (Ex. 301, pp. 4.1-27—4.1-28.)~~

The District's offset ratio provides emission reductions for all nonattainment pollutants and their precursors at a minimum one-to-one ratio.

[Staff notes the conclusion regarding offset ratios is not consistent with the precedent cited. The only precedent set by Avenal was related to GHG analysis, not criteria pollutant offsets.]

p. 18, top

Finally, the modeling analysis indicates that the maximum 24-hour PM10 impacts occur in the undeveloped area about 0.1 miles southeast of the project site, and impacts would be substantially lower at the closest single-family residence, which is located approximately 0.3 miles to the northeast.

p. 18, bottom

~~Typical operating emission limits~~ Impacts to ambient concentrations are short-term during commissioning; therefore, modeling results with annual or multi-year averaging do not apply during initial commissioning.

[Staff rewrite to clarify]

p. 19, top

Using the U.S. EPA approved model to calculate commissioning emission impacts, the Applicant determined that ~~emission rates~~ project impacts due to VOC, PM10, PM2.5, and SOx emissions are not expected to be higher than normal operation emissions.

p. 20, third full ¶

The evidence indicates that the implementation of interpollutant credit trading and the related ratio under District Rule 2201 is subject to federal oversight and the ratio could possibly be heightened (increased) in the future.

p. 21, last bullet

**Facility #N-1801297 (Winco Foods).** 1) Proposed a 480 hp Caterpillar Model C9 Tier 3 certified diesel-fired emergency standby IC engine powering an electric generator. 2) Proposed a 1,372 hp Caterpillar Model C32 Tier 2 certified diesel-fired emergency standby IC engine powering an electric generator, ~~respectively.~~

p. 24, Findings [of Fact]

5. The project NO<sub>x</sub> and VOC emission would contribute to existing violations of state and federal ozone ambient air quality standards. The project SO<sub>2</sub> and PM10/PM2.5 emissions would contribute to existing violations of state and federal particulate matter ambient air quality standards. Compliance with Condition of Certification **AQ-SC7** will mitigate the ozone impact to less than significant levels.

[To clarify and expand.]

p. 24, Findings

8. ~~To reduce NO<sub>x</sub>, VOC, and PM10/2.5 emissions to insignificant levels under CEQA, Conditions **AQ-SC6** and **AQ-SC7** require the project to use low emission maintenance vehicles and fugitive dust controls during operation. The proposed emission offset package contained in Condition of Certification **AQ-SC7**, along with the proposed emissions controls, will mitigate all project air quality impacts to a less than significant level.~~

[Staff notes that underlying analysis contains no recommendations for maintenance vehicles or dust during operations.]

#### p. 24, Findings

~~10. There is no evidence that project related air emissions will result in significant nuisance odors or any significant air quality impacts on soils, vegetation or sensitive species.~~

[Staff suggests deleting as finding does not reflect its analysis.]

#### p. 25, Conclusions of Law

2. Implementation of the mitigation measures described in the record and contained in the Conditions of Certification ensures that the project will not result in significant direct, indirect, or cumulative air quality impacts in conformance with ~~NEPA and~~ CEQA requirements.

### **PUBLIC HEALTH**

Staff has no comments.

### **WORKER SAFETY/FIRE PROTECTION**

Staff has no comments.

### **HAZARDOUS MATERIALS MANAGEMENT**

#### p. 7, ¶ 3

The natural gas pipeline for the A2PP Project will be designed for Class 1 service because it is a pipeline located within 220 ~~years~~ yards of ten or fewer buildings intended for human occupancy in any 1-mile segment.

#### p. 9, top

(According to Staff, this benchmark – as compared to the others listed above

– evaluates the acceptable level of avoidable exposures to the population instead of merely addressing emergency planning and proper safety practices. Ex. 300, p. 4.4-31.)

p. 18, Conclusion of Law

1. We therefore conclude that the use of hazardous materials in association with the A2PP Project as mitigated by the conditions of certification will not result in any significant direct, indirect, or cumulative adverse public health and safety impacts.

**WASTE MANAGEMENT**

Staff has no comments.

**BIOLOGICAL RESOURCES**

p. 17, Finding of Fact 6

The federal and state-listed San Joaquin kit fox and the federal and state-listed giant garter snake could potentially occur within the designated impact area.

[To clarify.]

p. 17, Finding of Fact 11

Pre-construction surveys for ~~the species noted above~~ San Joaquin kit fox, giant garter snake, Western pond turtle, burrowing owl, Swainson's hawk nests and other nests, burrowing owl, and potentially fairy shrimp, shall be conducted to determine their presence or absence within designated work areas with the incorporation of the Conditions of Certification

[To clarify, per Conditions.]

p. 19, BIO-2

~~inspect for installation of structures that prevent entrapment or allow escape during periods of construction inactivity at the end of each day;~~

[Staff request to delete]

p. 22, BIO-6

The project owner shall submit two copies of the proposed biological resources mitigation implementation and monitoring plan (BRMIMP) to the CPM for review and approval; to the USFWS, and CDFG for review and comment; and shall implement the measures identified in the approved BRMIMP. The BRMIMP shall be prepared in consultation with the Designated Biologist, shall include all measures contained in the

BRMIMP for the A2PP Project, and shall identify:

[Punctuation edits to clarify]

p. 29, **BIO-12** Verification

A map ~~figure~~ shall be prepared for any sightings of GGS or WPT.

[To clarify; also, move this sentence from verification to condition as the condition's last sentence.]

p. 29, **BIO-13**

Any dewatered habitat ~~should~~ shall remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of the dewatered habitat.

p. 30, **BIO-14**

3. The project owner ~~shall~~ herein grants to the CPM and to CDFG and/or ACOE employees and/or their representatives the right to enter the project site at any time to ensure compliance with the terms and conditions and/or to determine the impacts of storm events, maintenance activities, or other actions that might affect the jurisdictional waters. The CPM, ACOE, or CDFG may, at their discretion, review relevant documents maintained by the project operator, interview the operator's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of mitigation measures.

## **SOIL AND WATER RESOURCES**

p. 18, Agency and Public Comments

~~There were no agency and public comments.~~

Staff received comments from the Stanislaus County Public Works Department regarding compliance with the County's NPDES General Permit, and ensured that compliance. (Ex. 300, 4.9-14; **SOIL&WATER-1, -3**). Staff also worked with the Regional Water Quality Control Board regarding Waste Discharge Requirements. (Ex. 301, 4.9-16).

p. 19, **SOIL&WATER-2**

The Drainage, Erosion and Sediment Control Plan (DESCP) shall contain the following elements.

[To clarify—first reference in Conditions.]

p. 20, ***Clearing and Grading***

~~Existing and proposed topography tying in proposed contours with existing topography shall be illustrated. The plan shall provide both existing and proposed topography that illustrates the connections of proposed contours to existing topography.~~

[Staff rewrite of assessment Condition to clarify.]

## **CULTURAL RESOURCES**

p. 10, ¶ 3 (Windshield Survey)

Additionally ~~and~~, these types of structures need not be recorded on California Department of Parks and Recreation (DPR) 523 forms.

p. 22, **CUL-2 Verification**

At least 120 days prior to the start of ground disturbance related to the Reinforcement Segment, the project owner shall provide the AFC, data responses, all confidential cultural resources documents, maps and drawings, and the Staff Assessmentsu to the PG.

At least 90 days prior to the start of ground disturbance related to the Reinforcement Segment, the project owner shall submit the Geoarchaeological Pre-Excavation Research Report ~~and~~ to the CPM for review and approval.

p. 26, **CUL-5**

Prior to the start of ground disturbance, the project owner shall provide the CRS with copies of the AFC, data responses, confidential cultural resources reports, all supplements, and the Energy Commission's Staff Assessmentsu (SAs) for the project.

p. 27, **CUL-5 Verification**

At least 40 days prior to the start of ground disturbance, the project owner shall provide the AFC, data responses, confidential cultural resources documents, and the Energy Commission ~~FSA~~Staff Assessments to the CRS and the subject maps and drawings to the CRS and CPM.

p. 30, CUL-8

Prior to and for the duration of ground disturbance, the project owner shall provide Worker Environmental Awareness Program (WEAP) training to all new workers within their first week of employment at the project site, along the linear facilities routes, ~~and~~ at laydown areas, roads, and other ancillary areas.

p. 31, CUL-8

9. A sticker that shall be placed on hard hats indicating that ~~environmental~~cultural resources training has been completed.

pp. 34-35, CUL-8 Verification

At least 30 days prior to the start of ground disturbance, the project owner shall provide the CPM and CRS with a letter confirming that the CRS, alternate CRS, and CRMs have the authority to halt ground disturbance in the immediate vicinity of a cultural resources discovery, the ~~area~~distance to be determined by the CRS in consultation with the CPM, and that the project owner shall ensure that the CRS notifies the CPM within 24 hours of a discovery, or by Monday morning if the cultural resources discovery occurs between 8:00 AM on Friday and 8:00 AM on Sunday morning.

## **GEOLOGICAL AND PALEONTOLOGICAL RESOURCES**

p. 7, first full ¶

Based on the above discussion, we find that the potential for significant adverse cumulative impacts to the proposed project from geologic hazards during its design life is low and the potential for project impacts to geologic, mineralogic, and paleontologic resources is also low.

## **LAND USE**

Note: Staff requests the Errata contain more legible versions of Land Use Figures 1 and 2, which are attached in the accompanying email.

p. 6, top

Agricultural lands near the project site include ~~fields of nuts trees~~ almond orchards, alfalfa, and grass.

p. 8, ¶ 3

Within the City of Ceres, the line would traverse areas designated as General Industrial, Light Industrial, Community Facilities and Low-Density Residential zones. Within the

City of Modesto, this line would traverse areas designated as~~land in~~ Industrial and Residential ~~zones~~.

[To clarify that these are land use designations and not zoning categories.]

p. 10, ¶ 2

~~Corridor 2 construction will result in the de minimus conversion of Prime Farmland.~~ We find that the impacts of this small conversion of Prime Farmland will not result in a substantial (or potentially substantial) adverse change to agricultural lands in the area.

[Section 15130 of CEQA guidelines no longer uses de minimis standard.]

p. 14, first full ¶

Within the City of Ceres, the line would traverse areas designated as General Industrial, Light Industrial, Community Facilities and Low Residential ~~zones~~.

next ¶ under Modesto zoning code

Within the City of Modesto, this line would traverse areas designated as~~land in~~ Industrial and Residential ~~zones~~.

p. 16, Public and Agency Comments

~~There were no public and agency comments received on the topic of land use.~~

Staff received comments from the City of Ceres regarding long term possible expansion of Crows Landing Road, and resolved that issue. (Ex. 300, 4.5-13, -14.)

Ex. 4.5-7

p. 17, Findings of Fact

1. The project will convert four square feet Prime Farmland to nonagricultural use. The conversion of this ~~small~~~~de-minimum~~ amount of farmland would not result in significant impacts nor does it necessitate compensation mitigation under the Stanislaus County General Plan.

## **TRAFFIC AND TRANSPORTATION**

p. 10, ¶ 1

To ensure that ~~contribution~~ construction traffic does not contribute to decreases in LOS, Staff proposed Conditions of Certification **TRANS-2** and **TRANS-3**.

p. 14

[To add]

#### 5. Agency and Public Comments

Staff received comments regarding potential traffic impacts from the City of Ceres and the Stanislaus County Department of Public Works. Staff addressed the City's school bus route concerns. (Ex. 300, 4.10-14; **TRANS-1, HAZ-5.**) Staff corrected County and County LOS references (Ex. 300, e.g. 4.10-18), and ensured the project owner will seek necessary traffic plan approvals from the County (Ex. 300, 4.10-13, **TRANS-2, -3.**)

#### p. 15, Findings of Fact

8. The A2PP as proposed with conditions of certification would not result in significant direct, indirect or cumulative traffic and transportation impacts, and therefore, would have no environmental justice issues.

#### p. 15, **TRANS-1**

Mitigation measures may include setting certain travel times for workers, ~~as well as limiting transport of equipment and materials to avoid school bus schedules, or as well as requiring construction workers to receive training a program to construction workers about bus stop and student safety.~~

#### p. 15, **TRANS-1** Verification

This school Traffic Control Plan may be included in the Traffic Control Plan required pursuant to **TRANS-2**.

#### p. 16, **TRANS-2**

**TRANS-2** The project owner shall prepare a construction traffic control and implementation plan for the project and its associated facilities. The project owner shall consult with the City of Ceres, Caltrans, the California Highway Patrol, and, in regards to the gas pipeline, the Stanislaus County Public Works Department ~~(for the gas pipeline),~~ in the preparation of the traffic control and implementation plan.

#### p. 16, **TRANS-2** Verification

At least 60 days prior to start of site mobilization, the project owner shall provide to the City of Ceres,~~;~~ Caltrans,~~;~~ and the California Highway Patrol, and the Stanislaus County Public Works Department for review and comment, and to the CPM for review and approval, a copy of the construction traffic control plan.

p. 17, TRANS-3

- Reconstruction ~~plans for~~ portions of Crows Landing Road; Service Road; Whitmore Avenue; Hatch Road; and Mitchell Road that are damaged by project construction due to oversize or overweight construction vehicles.

p. 17, TRANS-3 Verification

**Verification:** At least 30 days prior to the start of site mobilization, the project owner shall submit a mitigation plan focused on restoring: Crows Landing Road; Service Road; Whitmore Avenue; Hatch Road; and Mitchell Road to its preproject condition to Caltrans,~~;~~ County of Stanislaus Public Works Department,~~;~~ and the city of Ceres Public Works Department for review and comment, and to the CPM for review and approval.

## **SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE**

p. 6, third full ¶

Given the above-discussed projections for a commuting labor force and possible relocation of four full-time employees, the project will not require nor contribute to the need for construction of new parks.

p. 10, ¶ 1

The California Government Code ~~asserts that only~~ limits authority to impose school facilities fees to the CUSD ~~has authority to impose school facilities fees.~~

## **NOISE AND VIBRATION**

p. 12, NOISE-1

Prior to ground disturbance at the project site and again prior to ground disturbance at the location of the linear facilities, the project owner shall notify all residents within one

miles of the site and one mile of the linear facilities, by mail or other effective means, of the commencement of project construction.

[To clarify ambiguity.]

## **VISUAL RESOURCES**

### p. 22, ¶ 3 (VIS-2)

Within 48 hours of receiving a lighting complaint, the project owner shall provide the CPM with a complaint resolution form report as specified in the Compliance General Conditions, including a proposal to resolve the complaint and a schedule for implementation.

[Punctuation to clarify the condition is complete.]

### pp. 22-23, VIS-3

- a. Description of the overall rationale for the proposed surface treatment, including the selection of the proposed colors and finishes;
- b. List of each major project structure, building, tank, pipe, and wall; the transmission line towers and/or poles; and fencing, specifying the colors and finish proposed for each. Colors must be identified by vendor, name, and number; or according to a universal designation system;
- c. One set of color brochures or color chips showing each proposed color and finish;
- d. One set of 11" x 17" color photo simulations at life size scale, of the treatment proposed for use on project structures, including structures treated during manufacture, from Key Observation Points 1 and 2 (locations indicated on Visual Resources Figure 1);
- e. Specific schedule for completion of the treatment;
- f. Procedure to ensure proper treatment maintenance for life of the project.

[Punctuation to clarify the condition is complete.]



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
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**APPLICATION FOR CERTIFICATION  
FOR THE TID ALMOND 2  
POWER PLANT PROJECT**

**Docket No. 09-AFC-2**

**PROOF OF SERVICE  
(Revised 7/30/10)**

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DECLARATION OF SERVICE

I, Maria Santourdjian, declare that on November 18, 2010, I served and filed copies of the attached Staff's Comments on PMPD, dated November 17, 2010. 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: [\[http://www.energy.ca.gov/sitingcases/almond\]](http://www.energy.ca.gov/sitingcases/almond).

The documents have 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;
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**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 09-AFC-2  
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, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Originally Signed by \_\_\_\_\_  
Maria Santourdjian