

CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512



December 1, 2010

Ms. Brenda Cabral
Supervising Air Quality Engineer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, California 94109

Dear Ms. Cabral:

DOCKET

09-AFC-4

DATE DEC 01 2010

RECD. DEC 01 2010

**OAKLEY GENERATING STATION (09-AFC-4)
PRELIMINARY DETERMINATION OF COMPLIANCE, APPLICATION 20798**

Energy Commission staff appreciates the opportunity to provide written public comments on the Preliminary Determination of Compliance (PDOC) issued by the Bay Area Air Quality Management District on October 29, 2010 for the Oakley Generating Station (OGS) in eastern Contra Costa County.

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 may be difficult or impossible without additional information from the Bay Area Air Quality Management District (BAAQMD or District) in support of the Final Determination of Compliance.

Requirement for Offsets and Emission Reduction Credits

The PDOC does not show which emission reduction credits (ERC) would be used to satisfy the requirements under Regulation 2-2-302 for offsets. The PDOC claims that: "The applicant has committed to identify a list of offsets holders who have indicated in writing their willingness to sell sufficient ERCs. . ." (PDOC, p. 65). However, a list of ERC holders, even if it had been provided, would fall short of demonstrating that any ERCs are held by or proposed to be surrendered by OGS.

With only this tentative information from the OGS and BAAQMD, Energy Commission staff cannot discern whether the applicant has the ability to offset the project. Energy Commission staff indicated the need for OGS to provide its offset package in our Data Request 16 (1/19/2010).¹ This is a persistent information deficiency that makes it difficult for us to determine whether project impacts can be mitigated.

¹ Staff Data Request 16 to OGS (1/19/2010, TN 54860) said: "Please provide a tabulated list showing expected emissions and emission offset accounting indicating the proposed quantity of offsets, including the locations of emission reductions, in a quantity sufficient to fully offset the project's emissions, including appropriate offset ratios. Please show the current updated ERC certificate number and former certificate numbers for certificates that have been recently split and/or re-issued in the name of the project."

The BAAQMD should identify the specific offsets that are in the control of the applicant and list which ERCs would be surrendered. Normally, this kind of information is provided as part of the Determination of Compliance for disclosure [for more information, see the Warren-Alquist Act rules at Public Resources Code, Section 25523(d)(2)]. At this point, there is no information from OGS or BAAQMD that indicates any ERCs are in the applicant's control.

Transition of Commissioning into Routine Operation

The PDOC (Table 15) illustrates the total emissions due to 831 hours of commissioning activities, for both turbines combined. The applicant provided information indicating that an additional 1,725 hours could be required for commissioning activities for both turbines combined, with the turbines operating at levels compliant with normal limits (in OGS 4/7/2010, Supplemental AFC, Appendix 5.1A, Table 5.1A-5b, p. 1 of 2). In PDOC Condition 7, commissioning *without abatement devices* would be limited to 831 hours combined. However, for the applicant's proposed additional 1,725 hours of commissioning *with abatement*, it is not clear whether all normal operating limits become applicable. The District should clarify whether Conditions 11 through 30 become applicable only after the abatement devices are installed or upon the close of the 90 day period in Condition 10.

Requirement for Ammonia Continuous Emission Monitor

In PDOC Condition 16(e), the District requires continuous recording of ammonia (NH₃) injection rates as a means of verifying compliance with the NH₃ emission concentration limit. Energy Commission staff notes it may be feasible to use a continuous emissions monitor (CEM) to also monitor NH₃ concentrations in the stack, and that the District has established this as an optional means of verification in the license for the Marsh Landing Generating Station (District Application 18404, Final Determination of Compliance, June 2010). The District should consider adding a similar requirement to OGS Condition 16(e).

We appreciate the District working with Energy Commission staff on this licensing case. If you have any questions regarding our comments, please contact Gerald Bemis at (916) 654-4960. We look forward to discussing our comments in further detail with you.

Sincerely,

MATTHEW S. LAYTON
Supervising Mechanical Engineer

cc: Docket (09-AFC-4)
Proof of Service List
Dave Mehl, California Air Resources Board
Gerardo Rios, U.S. Environmental Protection Agency, Region IX