



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

APPLICATION FOR CERTIFICATION FOR THE
MARIPOSA ENERGY PROJECT
 MARIPOSA ENERGY, LLC

DOCKET No. 09-AFC-3

NOTICE OF PREHEARING CONFERENCE AND EVIDENTIARY HEARING AND ORDER

PLEASE TAKE NOTICE that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification (AFC) for the **MARIPOSA ENERGY PROJECT** has scheduled the Prehearing Conference and Evidentiary Hearings as follows:

The PREHEARING CONFERENCE will be conducted on:

TUESDAY, FEBRUARY 1, 2011
 Beginning at 10:00 a.m.

BYRON BETHANY IRRIGATION DISTRICT
7995 BRUNS ROAD,
BYRON, CALIFORNIA, 94514
 Wheelchair Accessible
(Map Attached)

DOCKET	
09-AFC-3	
DATE	<u>DEC 23 2010</u>
RECD.	<u>DEC 27 2010</u>

The EVIDENTIARY HEARING will take place on:

MONDAY, FEBRUARY 7, 2011 and (if necessary)
TUESDAY, FEBRUARY 8, 2011
 Beginning at 10:00 a.m.

BYRON BETHANY IRRIGATION DISTRICT
7995 BRUNS ROAD,
BYRON, CALIFORNIA, 94514

TELECONFERENCE OPTION: *You may participate in the Prehearing Conference by telephone and/or by computer via "WebEx" conferencing system. Please see the "Participation through WebEx" section attached to this notice.*

PLEASE TAKE NOTICE that the Committee has established the following schedule which **supersedes** all prior schedules:

<u>EVENT</u>	<u>DATE</u>
Supplemental SA (SSA)	12/16/10
Applicant Files Testimony	12/20/10
Intervenors File Testimony	1/7/11
Last Day to File Petition to Intervene	1/10/11
All Parties File Rebuttal Testimony	1/21/11
All Parties File Prehearing Conference Statements	1/25/11
Prehearing Conference	2/1/11
Evidentiary hearings	2/7/11 – 2/8/11
All Parties File Opening Briefs	2/15/11
All Parties File Reply Briefs	2/22/11
Presiding Members Proposed Decision (PMPD)	3/22/11
Committee Hearing on PMPD	4/19/11
Close of public comment period on PMPD	4/22/11
Final Adoption Hearing	TBD

Purpose of Prehearing Conferences

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an evidentiary hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the certification process. (Cal. Code Regs., tit. 20, § 1718.5.)

At the Prehearing Conferences, all parties (Staff, Applicant, and Intervenors) shall present their respective positions regarding: the substantive topic areas ready for evidentiary hearing; those topics that require further analysis, including the nature of, and time frame for, any such analysis; the topic areas that have been resolved; the topic areas that are disputed and require adjudication, and topic areas where a party seeks an overriding finding of public necessity and convenience. (Pub. Res. Code § 25525.) The parties shall also identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Local, state, and federal governmental agencies may participate at the Prehearing Conferences and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20, § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit.

Please include "Mariposa Energy Project, Docket No.09-AFC-3" on any written comments.

ORDER re: Prehearing Conference Statements

To facilitate the process, each party shall serve and file a **PREHEARING CONFERENCE STATEMENT**. Each party's Prehearing Conference Statement shall be provided to and received by the other parties and the Commission's Docket Unit, 1516 9th Street, MS-4, Sacramento, California 95814-5512, **NO LATER than 3:00 p.m., Wednesday, January 25, 2011**. The parties shall e-mail their statements to the Hearing Officer as well as to the Docket Unit and the parties as indicated on the Proof-of-Service list. The parties shall also submit a **WORD version** of their statements to the Hearing Officer via e-mail.

FAILURE TO FILE A TIMELY PREHEARING CONFERENCE STATEMENT MAY PRECLUDE A PARTY FROM PARTICIPATING AT THIS HEARING.

Each statement shall set forth under a separate heading:

- a) The topic areas that are complete and ready to proceed to Evidentiary Hearing;
- b) The topic areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor;
- c) The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
- d) The identity of each witness sponsored by each party (***note***: witnesses must have professional expertise in the discipline of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; the time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;
- e) Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;
- f) A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (as explained in the following section on Formats for Presenting Evidence);
- g) Topic areas for which the Applicant will seek a commission override due to public necessity and convenience pursuant to Pub. Res. Code § 25525.
- h) Proposals for briefing deadlines, impact of vacation schedules, and other scheduling matters; and

- i) For all topics, any proposed modifications to the proposed Conditions of Certification listed in the Supplemental Staff Assessment (SSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

Format for Presenting Evidence

The parties shall provide written testimonial and documentary evidence in two formats.

1. Each document shall be numbered and identified on an **Exhibit List**. (*Use example attached to this Notice.*)
 - Applicant's exhibits shall be numbered consecutively as **Exhibits 1 through 299**.
 - Staff's exhibits shall be numbered consecutively as **Exhibits 300 through 399**.
 - Intervenor Robert Sarvey's exhibits shall be numbered consecutively as **Exhibits 400 through 499**.
 - Intervenor Morgan K. Groover's exhibits (on behalf of Mountain House Community Services Board) shall be numbered consecutively as **Exhibits 500 through 599**.
 - Intervenor Rajesh Dighe's exhibits shall be numbered consecutively as **Exhibits 600 through 699**.
 - Intervenor California Pilots Association's exhibits shall be numbered consecutively as **Exhibits 700 through 799**.
 - Intervenor Jass Singh's exhibits shall be numbered consecutively as **Exhibits 800 through 899**.

Printed copies of the Exhibits shall be provided to the Committee and other parties no later than 3 p.m. on the dates set forth in the filing schedule table, above. Failure to timely exchange Exhibits may result in exclusion of evidence.

2. To facilitate the Committee's efficient organization and review of the Project, printed copies of the exhibits for each topic area shall **also** be compiled in separate file folders designated by topic with the appropriate Exhibit Number attached to each document. This compilation shall include all opening and rebuttal testimony filed by the party and shall be provided to the Hearing Officer no later than **February 1, 2011**.

FAILURE TO COMPLY WITH THE FILING REQUIREMENTS STATED IN THIS ORDER MAY PRECLUDE A PARTY FROM PARTICIPATING AT THIS HEARING.

Official Notice

Pursuant to section 1213 of the Commission's regulations, the Committee intends to take Official Notice of the report issued by the Commission's Siting Committee entitled:

Committee Guidance on Fulfilling California Environmental Quality Act Responsibilities for Greenhouse Gas Impacts in Power Plant Siting Applications.

The report was issued in March 2009 and is found on the Commission website at: <http://www.energy.ca.gov/2009publications/CEC-700-2009-004/CEC-700-2009-004.PDF>

Petitions to Intervene to Become a Formal Party

Only formal parties (Applicant, Staff, or Intervenors) may present evidence and cross-examine witnesses at the Evidentiary Hearing. The Energy Commission's Presiding Member's Proposed Decision (PMPD) on the Mariposa Energy Project will be based solely upon the official evidentiary record developed at the Evidentiary Hearing.

Anyone with an appropriate interest in the Mariposa Energy Project may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, the formal parties may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with all Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

To facilitate the participation of all parties at the Prehearing Conference, and allow for an orderly and efficient Evidentiary Hearing, **the DEADLINE TO FILE a Petition to Intervene in this case is 3:00 p.m., Monday, January 10, 2011.** (20 Cal. Code Regs., § 1203(f).) Time extensions will not be granted for new Intervenors to review case materials since this proceeding has been ongoing since August 26, 2009.

Public Adviser and Public Participation

The Energy Commission Public Adviser is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office at (916) 654-4489 or (800) 822-6228 or email: **[publicadviser@energy.state.ca.us]**.

If you have a disability and need assistance to participate in any scheduled event, contact Lourdes Quiroz no less than five days prior to the hearing at 916-654-5146 or e-mail: **[lquiroz@energy.state.ca.us]**.

Information

Questions of a legal or procedural nature should be directed to Kenneth Celli, the Hearing Officer, at (916) 651-8893, or e-mail: [kcelli@energy.state.ca.us].

Technical questions concerning the project should be addressed to Craig Hoffman, Staff Project Manager, at (916) 654-4781, or e-mail: [choffman@energy.state.ca.us].

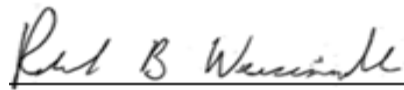
Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail: [mediaoffice@energy.state.ca.us].

Information concerning the status of this project, as well as notices and other relevant documents pertaining to this proceeding, may be viewed on the Energy Commission's Internet web page at: [<http://www.energy.ca.gov/sitingcases/mariposa>].

Dated: December 23, 2010 at Sacramento, California.



JEFFREY D. BYRON
Commissioner and Presiding Member
Mariposa AFC Committee



ROBERT B. WEISENMILLER
Commissioner and Associate Member
Mariposa AFC Committee

REMOTE ATTENDANCE AND PARTICIPATION IN THE PREHEARING CONFERENCE AND EVIDENTIARY HEARINGS THROUGH WEBEX - THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

TELECONFERENCE OPTION: You may participate in the Prehearing Conference and Evidentiary Hearings by telephone and/or by computer via our "WebEx" web conferencing system. For details on how to participate, please see the "Participation through WebEx" directions below.

1. COMPUTER LOG-ON WITH A DIRECT PHONE NUMBER:

- Please go to <https://energy.webex.com> and enter the meeting number unique to the specific hearing date:
- 2/1/11 – Prehearing Conference : **927 132 540**
- 2/7/11 – Evidentiary Hearing #1 meeting number: **927 128 803**
- 2/8/11 – Evidentiary Hearing #2 meeting number: **921 547 734**

When prompted, enter your information and the meeting password: **mariposa#1**

After you login, a prompt will appear on-screen for you to provide your phone number. In the **Number box**, type your area code and phone number and click OK. **You will receive a call back on your phone for the audio of the meeting.** International callers can use the "Country/Region" button to help make their connection.

2. COMPUTER LOG-ON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:

- Please go to <https://energy.webex.com> and enter the unique meeting number:
- 2/1/11 – Prehearing Conference : **927 132 540**
- 2/7/11 – Evidentiary Hearing #1 meeting number: **927 128 803**
- 2/8/11 – Evidentiary Hearing #2 meeting number: **921 547 734**
- When prompted, enter your information and the meeting password: **mariposa#1**

After you login, a prompt will ask for your phone number. Click "CANCEL."

- **Instead** call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login.

3. TELEPHONE ONLY (NO COMPUTER ACCESS):

- Call 1-866-469-3239 (toll-free in the U.S. and Canada) and when prompted enter the meeting number:
- 2/1/11 – Prehearing Conference : **927 132 540**
- 2/7/11 – Evidentiary Hearing #1 meeting number: **927 128 803**
- 2/8/11 – Evidentiary Hearing #2 meeting number: **921 547 734**

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [<http://support.webex.com/support/system-requirements.html>].

Please be aware that the meeting's WebEx audio and on-screen activity may be recorded..



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1516 NINTH STREET, SACRAMENTO, CA 95814 - 1-800-822-6228 - WWW.ENERGY.CA.GOV**

Project Name: Application for Certification for the **MARIPOSA ENERGY PROJECT**, Docket No. 09-AFC-3

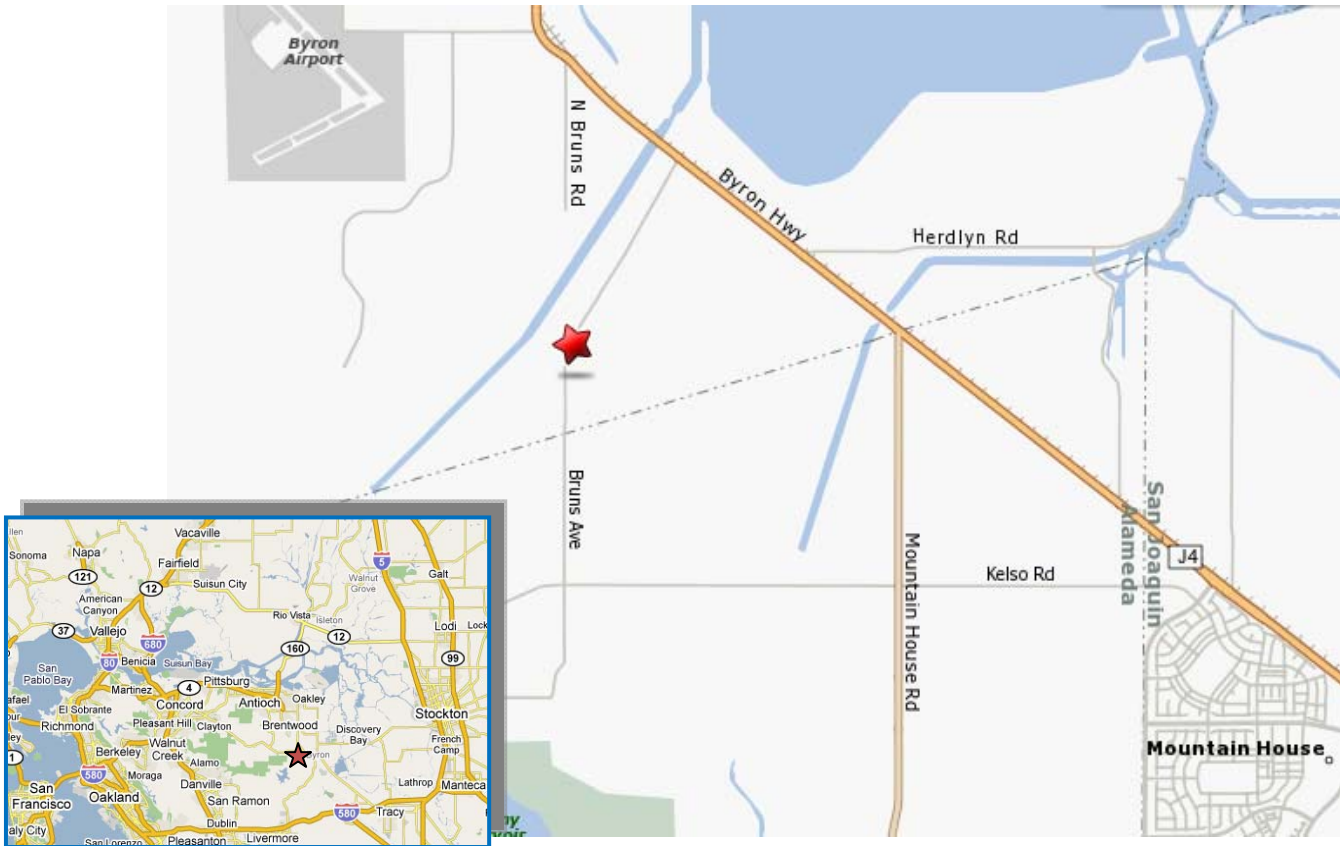
SAMPLE EXHIBIT LIST

NOTE: The format of the samples provided below is equally applicable to all parties. However, given the likely differences in the documentary evidence submitted by the parties, the samples illustrate how to address specific types of evidence that might be unique to each party. **SUBMIT ALL EXHIBIT LISTS IN WORD FORMAT.**

Exhibit	Brief Description	Offered	Admitted
APPLICANT'S EXHIBITS 1-299			
1	Application for Certification (AFC); dated [month, day, year], and docketed on [month, day, year].		
COMMISSION STAFF'S EXHIBITS 300-399			
300	Staff Analysis		
301	Staff's Supplemental Analysis		
INTERVENOR ROBERT SARVEY'S EXHIBITS 400 - 499			
INTERVENOR MORGAN K. GROOVER'S EXHIBITS 500 - 599			
INTERVENOR RAJESH DIGHE'S EXHIBITS 600 - 699			
INTERVENOR CALIFORNIA PILOT'S ASSOCIATION EXHIBITS 700 - 799			
INTERVENOR JASS SINGH'S EXHIBITS 800 - 899			

Byron Bethany Irrigation District

7995 Bruns Road
Byron, California, 94514



Mailed to Lists: POS, 7356, 7357, 7358, 7359



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COMMISSION OF THE STATE OF CALIFORNIA
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1-800-822-6228 – WWW.ENERGY.CA.GOV

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

Docket No. 09-AFC-3

PROOF OF SERVICE
(Revised 12/23/2010)

APPLICANT

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

California Pilots Association
c/o Andy Wilson
31438 Greenbrier Lane
Hayward, CA 94544
andy_psi@sbcglobal.net

Kristy Chew
Advisor to Commissioner Byron
E-Mail Service preferred
kchew@energy.state.ca.us

APPLICANT'S CONSULTANTS

Doug Urry
2485 Natomas Park Dr #600
Sacramento, CA 95833-2975
Doug.Urry@CH2M.com

Rajesh Dighe
395 W. Conejo Avenue
Mountain House, California 95391
dighe.rajesh@gmail.com

Craig Hoffman
Siting Project Manager
choffman@energy.state.ca.us

COUNSEL FOR APPLICANT

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

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

Kerry Willis
Staff Counsel
kwillis@energy.state.ca.us

Jennifer Jennings
Public Adviser
publicadviser@energy.state.ca.us

INTERESTED AGENCIES

California ISO
E-mail Service Preferred
e-recipient@caiso.com

*Mr. Jass Singh
291 N. Altadena Street
Mountain House, California 95391
jass.singh2000@gmail.com

ENERGY COMMISSION

JEFFREY D. BYRON
Commissioner and Presiding Member
jbyron@energy.state.ca.us

INTERVENORS

Mr. Robert Sarvey
501 W. Grantline Road
Tracy, California 95376
Sarveybob@aol.com

ROBERT B. WEISENMILLER
Commissioner and Associate Member
rweisenm@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on December 23, 2010, I served and filed copies of the attached Committee Order Granting Petition to Intervene and Further Order, Committee Order Granting Intervenors CalPilots and Rajesh Dighe's Petition for Minor Modifications to Project Schedule and Notice of Prehearing Conference and Evidentiary Hearing and Order. The original documents, filed with the Docket Unit, are 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;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date 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

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.

Original signed by: _____

Maggie Read
Hearing Adviser's Office