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## DOCKET

**09-AFC-4**

DATE	MAR 10 2011
RECD.	MAR 10 2011

March 10, 2011

California Energy Commission  
Docket Unit  
1516 Ninth Street  
Sacramento, CA 95814-5512

Subject: **CONTRA COSTA GENERATING STATION, LLC'S  
REVISED PREHEARING CONFERENCE STATEMENT  
OAKLEY GENERATING STATION  
DOCKET NO. (09-AFC-4)**

Enclosed for filing with the California Energy Commission is the original of **CONTRA COSTA GENERATING STATION, LLC'S REVISED PREHEARING CONFERENCE STATEMENT**, for the Oakley Generating Station (09-AFC-4).

Sincerely,

A handwritten signature in blue ink that reads "Marie Mills".

Marie Mills

Scott A. Galati  
**GALATIBLEK LLP**  
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STATE OF CALIFORNIA

Energy Resources  
Conservation and Development Commission

In the Matter of:

**DOCKET NO: 09-AFC-4**

Application for Certification for the  
**OAKLEY GENERATING STATION**

**CCGS, LLC'S REVISED  
PREHEARING CONFERENCE  
STATEMENT**

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**INTRODUCTION**

Contra Costa Generating Station LLC (CCGS LLC), a wholly owned subsidiary of Radback Energy LLC, in accordance with 20 CCR § 1718.5 and the Committee Order dated February 18, 2011, hereby files its PreHearing Conference Statement for the Oakley Generating Station (OGS). At the time this PreHearing Conference Statement was prepared, CCGS LLC had not yet received any testimony from Intervener Sarvey and therefore the information provided below may need to be supplemented.

**A. Topic Areas Complete and Ready to Proceed To Evidentiary Hearing**

CCGS LLC believes that all topic areas are complete and ready for adjudication at the Evidentiary Hearing. We believe the Committee has ample evidence to conclude that the OGS will not result in significant environmental impacts and will comply with all applicable laws, ordinances, regulations and standards (LORS). CCGS LLC also does not believe the evidentiary hearing scheduled for March 25, 2011 will be required.

**B. Topic Areas That Are Not Complete**

CCGS LLC does not believe there are any topic areas that are not complete.

**C. Disputed Topic Areas**

CCGS LLC disputes three areas with Staff. Table 1 includes a brief summary of each dispute.

**D. Proposed Witnesses and Testimony**

Table 1 identifies the witnesses proposed by CCGS LLC including a brief summary of the subject areas of the testimony and an estimate of the amount of time necessary for direct live testimony, if needed. The table also identifies those areas where CCGS LLC believes live testimony is not warranted and therefore offers to submit the testimony upon sworn declaration.

**E. Cross-Examination**

Table 1 also identifies those witnesses (topic areas) that CCGS LLC requests be available for cross-examination, with an estimate of the amount of time necessary for cross-examination. CCGS LLC does not challenge the qualifications of any Staff witness to provide expert testimony and therefore waives voir dire. A brief description of the subject areas in dispute that will encompass the scope of cross-examination is included in Table 1.

**F. Exhibit List**

Table 2 is CCGS LLC's Proposed Exhibit List.

**G. Public Benefit and Need: Finding of Override**

CCGS LLC is not requesting a Finding of Override from the Commission as the OGS will not result in significant unmitigatable impacts and will comply with all applicable laws, ordinances, regulations and standards.

**H. Scheduling**

At this time, CCGS LLC proposes to complete all topic areas except the new topic of pipeline safety as directed by the Committee at the March 15, 2011 evidentiary hearing. CCGS LLC requests one round of briefs on a schedule sufficient to accommodate the Presiding Member's Proposed Decision (PMPD) to be issued on or before April 12, 2011. Since the disputes are few, CCGS LLC does not request briefs. In lieu of briefs, CCGS LLC requests oral argument at the close of evidence. CCGS LLC proposes that evidence for the topic areas of Soil and Water Resources and Biological Resources be taken together with witnesses participating as a panel because the disputes relating to Wetland E affect conditions in both topic areas. For the same reasons, CCGS LLC requests that the evidence for the topics of Public Health be taken at the same time as Socioeconomics (Environmental Justice).

**I. Proposed Modifications to Conditions of Certification**

CCGS LLC has carefully reviewed the FSA and agrees with the substantial majority of the Conditions of Certification. Conditions of Certification where CCGS LLC respectfully requests modifications are presented in its Opening Testimony and include **AQ-SC7** and -**SC8**; **SOIL&WATER-4, -6, -8, and -9**; and **BIO-19**.

## CONCLUSION

CCGS LLC is prepared to proceed to evidentiary hearing and believes that all of the evidence can be received and the record closed at the end of the evidentiary hearing scheduled for March 15, 2011. CCGS LLC appreciates the Committee's dedication to move the OGS to a Decision by May 18, 2011.

| Dated: Revised March 109, 2011

Respectfully Submitted,

// original signed //

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Scott A. Galati  
Counsel to Contra Costa Generating Station, LLC

**TABLE 1**  
**OAKLEY GENERATING STATION PROJECT**  
Proposed Witness List

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
ALTERNATIVES	None	Doug Davy	Submitted on Declaration	None	None
AIR QUALITY	Minor dispute with Staff <u>Major Dispute with Sarvey</u>	Greg Darvin James McLucas	Submitted on Declaration. Requested minor modifications to Condition of Certification <b>AQ-SC7</b> and <b>AQ-SC8</b>	<u>0.5 hours</u> <del>None</del>	<u>0.25 hours - Sarvey</u> <del>None</del>
BIOLOGICAL RESOURCES	Minor dispute with Staff <u>Major dispute with Sarvey</u>	Doug Davy Richard Crowe <u>Greg Darvin</u>	Proposed changes to Conditions of Certification relating to:  Condition of Certification <b>BIO-19</b> – Wetland E – Staff’s version of the condition unnecessarily prohibits changes in water flow and vegetation that could benefit the Wetland E. The objective of the Wetland E management plan proposed by CCGS LLC is to enhance Wetland E which is unmanaged and in poor condition  <u>Dispute with Sarvey over impacts to Antioch Dunes</u>	<u>0.75 hours</u>	0.5 hours - <u>Staff</u> <u>0.5 hours – Dr. Weiss</u>
CULTURAL RESOURCES	None	Doug Davy	Submitted on Declaration	None	None

TOPIC AREA	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
FACILITY DESIGN	None	James McLucas	Submitted on Declaration	None	None
GEOLOGY AND PALEONTOLOGY	None	Doug Davy	Submitted on Declaration	None	None
HAZARDOUS MATERIALS	None	Doug Davy	Submitted on Declaration	None	None
LAND USE	None	Doug Davy	Submitted on Declaration	None	None
NOISE AND VIBRATION	None	James McLucas	Submitted on Declaration	None	None
POWER PLANT EFFICIENCY	None	James McLucas	Submitted on Declaration	None	None
POWER PLANT RELIABILITY	None	James McLucas	Submitted on Declaration	None	None
PROJECT DESCRIPTION	None	James McLucas	Submitted on Declaration	None	None
PUBLIC HEALTH	<u>Dispute with Sarvey regarding Public Health Impacts raised in Environmental Justice Testimony of Sarvey</u> <del>None</del>	Greg Darvin Doug Davy <u>Jerry Salamy</u>	<del>Submitted on Declaration</del> <u>Dispute Sarvey's claims of disproportional impacts</u>	<u>0.5 hours</u> <del>None</del>	<u>0.25 hours</u> <del>None</del>
SOCIOECONOMICS	None	Doug Davy	Submitted on Declaration	None	None

<b>SOIL AND WATER RESOURCES</b>	Major dispute with Staff	James McLucas Doug Davy	Condition of Certification <b>SOIL&amp;WATER-4, -6, -8, and -9.</b> Dispute relating to the requirements to use recycled water for the water supply and Wetland E Management Plan.	0.5 hours	0.5 hours
<b>TRAFFIC AND TRANSPORTATION</b>	None	Doug Davy	Submitted on Declaration	None	None
<b>TRANSMISSION LINE SAFETY AND NUISANCE</b>	None	James McLucas	Submitted on Declaration	None	None
<b>TRANSMISSION SYSTEM ENGINEERING</b>	None	James McLucas	Submitted on Declaration	None	None
<b>VISUAL RESOURCES</b>	None	Doug Davy	Submitted on Declaration	None	None
<b>WASTE MANAGEMENT</b>	None	Doug Davy	Submitted on Declaration	None	None
<b>WORKER SAFETY and FIRE PROTECTION</b>	None	James McLucas	Submitted on Declaration	None	None
<b>GENERAL CONDITIONS: COMPLIANCE</b>	None	James McLucas	Submitted on Declaration	None	None
<b><u>NEW/ TOPIC PIPELINE SAFETY</u></b>	<u>Unknown</u>	<u>To be Identified</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>





**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 *OAKLEY GENERATING STATION***

**Docket No. 09-AFC-4  
PROOF OF SERVICE  
(Revised 3/3/2011)**

**APPLICANT**

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**INTERESTED AGENCIES**

California ISO  
*E-mail Preferred*  
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### DECLARATION OF SERVICE

I, Marie Mills, declare that on March 10, 2011, I served and filed copies of the attached **CONTRA COSTA GENERATING STATION, LLC'S REVISED PREHEARING CONFERENCE STATEMENT**, dated March 10, 2011. 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:

[\[http://www.energy.ca.gov/sitingcases/contracosta/index.html\]](http://www.energy.ca.gov/sitingcases/contracosta/index.html). 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;  
☒ 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-4  
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.



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Marie Mills