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DOCKET

09-AFC-4

DATE Mar 14 2011

RECD. Mar 14 2011

March 14, 2011

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

Subject: **CONTRA COSTA GENERATING STATION, LLC'S
REBUTTAL TESTIMONY
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 REBUTTAL TESTIMONY**, for the Oakley Generating Station (09-AFC-4).

Sincerely,

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

Marie Mills

**Contra Costa Generating Station, LLC's
Rebuttal Testimony**

Oakley Generating Station (09-AFC-04)

March 14, 2011

STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application For Certification for the
OAKLEY GENERATION STATION
PROJECT

DOCKET NO. 09-AFC-4

DECLARATION OF
Gregory Darvin

I, Greg Darvin, declare as follows:

1. I am presently employed by Atmospheric Dynamics., as a Meteorologist.
2. A copy of my professional qualifications and experience is included as Attachment A to my Opening Testimony and is incorporated by reference in this Declaration.
3. I prepared the attached Rebuttal Testimony relating to Air Quality for the Oakley Generating Station (California Energy Commission Docket Number 09-AFC-4).
4. It is my professional opinion that the attached prepared testimony is valid and accurate with respect to issues that it addresses.
5. I am personally familiar with the facts and conclusions related in the attached prepared testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and that this declaration was executed at Carmel-by-the-Sea, CA on March 14, 2011.



Gregory Darvin

**OAKLEY GENERATING STATION PROJECT
AIR QUALITY
REBUTTAL TESTIMONY**

I. Name: Greg Darvin and James McLucas

II. Purpose:

Our Rebuttal Testimony addresses the Opening Testimony filed by Robert Sarvey on the subject of the Air Quality Resources associated with the construction and operation of the Oakley Generating Station Project (OGS), Docket 09-AFC-4.

III. Qualifications:

Greg Darvin: I am presently employed at Atmospheric Dynamics and have been for the past 8 years. I have a Graduate Degree in Atmospheric Science and I have 25 years of experience in air quality meteorology, dispersion model development and application, and air quality consulting. I prepared the Air Quality section of the AFC, as well as the post-filing information, data responses, and supplemental filings. A detailed description of my qualifications is contained in the resume attached to my Opening Testimony.

James McLucas: I am presently employed at Radback Energy, Inc. as the Senior Vice President, Engineering and have been for the past 3-1/2 years. I have a Degree in Mechanical Engineering and I have 29 years of experience in the development, engineering and construction of energy projects including solar, wind, cogeneration, and gas-fired combined cycle technologies and also water and wastewater treatment projects. I supervised and assisted in the preparation of the Air Quality section of the AFC, as well as the post-filing information, data responses, and supplemental filings. A detailed description of my qualifications is contained in the resume attached to my Opening Testimony.

To the best of our knowledge all referenced documents and all of the facts contained in this testimony are true and correct. To the extent this testimony contains opinions, such opinions are our own. We make these statements and provide these opinions freely and under oath for the purpose of constituting sworn testimony in this proceeding.

IV. Opinion and Conclusions

We have reviewed the Opening Testimony of Robert Sarvey and disagree with the assertions and conclusions it contains.

Mr. Sarvey alleges that a cumulative health risk assessment was not performed for the OGS. This is incorrect as a cumulative health risk assessment was prepared

by the Bay Area Air Quality Management District (BAAQMD) which is included in the Final Determination of Compliance (FDOC) Responses to Public Comments and in *Summary of CEQA Cumulative Impact Analysis for Permit Application 20798, Oakley Generating Station*, January 20, 2011. The cumulative health risk assessment calculated impacts from OGS along with all emission sources within 1000 feet of the project.

The primary contention underlying his Opening Testimony is that no cumulative impact analysis to air quality was undertaken for the OGS. That simply is not true as the Applicant, Staff and the BAAQMD performed cumulative impact analyses to determine the total impacts from sources located within 8 miles of OGS. Mr. Sarvey contends that there is a pattern emerging to avoid Prevention of Significant Deterioration (PSD) permitting. His basis is that since there are several sources in the area, all of their emission should be added together to trigger the emissions thresholds to require any new emission source to automatically be required to file for a PSD permit. This is contrary to the law which requires aggregation of sources that are contiguous, owned and operated by the same party and where there is clear evidence to segment the emissions. That is not the case here as the plants are not contiguous, are not owned and operated by the same party and since they were all built at different times under different contractual relationships, there is no evidence a concerted effort to segment emissions. Mr. Sarvey fails to acknowledge that it is good for the environment for the OGS to have voluntarily accepted very low emission limits which lower its total emissions below thresholds that would also require PSD permit. In addition, since the OGS underwent full air quality review by the BAAQMD and the CEC, there has not been any circumventing of the application of Best Available Control Technology or offsetting requirements. In other words, if the OGS was required to obtain a PSD Permit there would be no additional requirements beyond those imposed by the BAAQMD and CEC Staff.

Finally, Mr. Sarvey incorrectly asserts that the project violates the federal standards. The cumulative source NO₂ modeling clearly demonstrates compliance with the federal 1-hour standard. Mr. Sarvey also fails to take into consideration that the impacts are mitigated by offsets when he claims the impacts are significant.



**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)**

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DECLARATION OF SERVICE

I, Marie Mills, declare that on March 14, 2011, I served and filed copies of the attached **CONTRA COSTA GENERATING STATION, LLC'S REBUTTAL TESTIMONY**, dated March 14, 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>]. 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

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.



Marie Mills