

CALIFORNIA ENERGY COMMISSION

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November 23, 2011

Mr. Brian LaFollette
Assistant General Manager Power Supply Administration
c/o Turlock Irrigation District
333 East Canal Drive
PO Box 949
Turlock CA 95381-0949

DOCKET**02-AFC-4C**

DATE NOV 23 2011

RECD. NOV 23 2011

SUBJECT: WALNUT ENERGY CENTER, 02-AFC-4C
COMPLIANCE CONDITION OF CERTIFICATION SOIL&WATER-5

Dear Mr. LaFollette:

This letter is to inform you that the California Energy Commission (Energy Commission) is in receipt of information that the Walnut Energy Center (WEC) is currently out of compliance with Condition of Certification **SOIL&WATER-5**, based on the facility's use of groundwater over the past 4 years.

BACKGROUND

Per Public Resources Code (PRC), Section 25532, the Energy Commission shall assure that any facility certified under this division is operating in compliance with conditions adopted or established by the Energy Commission or specified in the written decision on the application. In addition, California Code of Regulations, Title 20, Section 1770 states that the Energy Commission shall provide adequate monitoring of all conditions and measures set forth in the final decision required to mitigate potential impacts and to assure that the facility is operated in compliance with all applicable laws.

CONDITION OF CERTIFICATION COMPLIANCE

The WEC project was approved by the Energy Commission in February 18, 2004. On July 27, 2005 the Energy Commission approved an order to modify bridge and back-up water supply identified in Condition of Certification **SOIL&WATER-5**. This Condition of Certification identified that back-up groundwater use to augment the recycled water supply in the event of a short-term disruption in service shall not exceed 51 acre feet per year. Annual average water use shall be calculated using a 5-year rolling average of actual water use starting with the first year of operation. Thus, in 5 years of operation WEC is only allowed to use 255 acre feet of groundwater.

The annual reports provided by Turlock Irrigation District / Walnut Energy Center identifies that groundwater use for the past 4 years has totaled 428.3 acre feet, as shown in the table below:

| Water Year | Groundwater pumping (AF) |
|--------------|--------------------------|
| 2007/2008 | 167.4 |
| 2008/2009 | 74.4 |
| 2009/2010 | 77.4 |
| 2010/2011 | 109.1 |
| Total | 428.3 |

To attain compliance with Condition of Certification **SOIL&WATER-5**, WEC must use no more than the allowed rolling average of 51 acre feet of water per year over 5 years. While it has been explained that interruptions in reclaimed water from the City of Turlock's Wastewater Treatment Plant has required a larger amount of groundwater being used for process purposes, the Energy Commission must ensure that the project will adhere to its allowable water use per Condition of Certification **SOIL&WATER-5**. Due to the project's historical and current failure to comply with the limitations as set forth in this Condition, WEC should submit quarterly water use reports for review in order to determine if the project is remaining within the annual water use limit.

The Energy Commission staff will continue to work closely with WEC to ensure conformance with all conditions of certification. However, WEC should understand that any use of water resources in excess of the amount as set forth in Condition of Certification **SOIL&WATER-5** will be considered a violation of that condition. A continuing violation may result in formal Energy Commission actions including the assessment of penalties in accordance with the provisions of PRC Section 25534.

In addition, staff is currently considering whether to recommend to the commission that penalties, in accordance with PRC Section 25534, be imposed for the past failure to comply with Condition of Certification **SOIL&WATER-5**. Should staff file a complaint, you will be notified pursuant to the provisions of Section 1232, Title 20, California Code of Regulations (20 CCR) and have an opportunity to respond pursuant to the provisions of Sections 1233 and/or 1237, 20 CCR.

Staff would like to discuss the on-going operations of the WEC project and work with you to ensure that the project complies with existing conditions of certification. Please contact me at your earliest convenience to schedule a meeting on this matter at (916) 651-0587 or e-mail me at cmarxen@energy.state.ca.us.

Sincerely,

Original signed by C. Marxen

CHRISTOPHER J. MARXEN
Compliance Office Manager
Siting, Transmission,
and Environmental Protection Division

cc: George Davies, TID
Jeffery Harris, Ellison, Schneider and Harris, LLP
Susan Strachan, Strachan Consulting
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