Pacific Gas and Electric Company®

Diane Ross-Leech
Director
Environmental Stewardship

77 Beale Street
San Francisco, CA 94105

Mailing Address
Mail Code B24A, Room 2473
Pacific Gas and Electric Company
P. O. Box 770000
San Francisco, CA 94177

415.973.5696
Internal: 223.5696
Fax: 415.973.0230

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California Energy Commission
Dockets Office, MS-4
Re: Docket No. 09-Renew EO-01
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET
09-RENEW EO-1
DATE 11/20/2009
RECD. 11/20/2009

Subject: Pacific Gas and Electric Company's Comments on Draft Best Management Practices & Guidance Manual: Desert Renewable Energy Projects

Dear Sir or Madam,

PG&E appreciates the opportunity to comment on the draft Best Management Practices & Guidance Manual: Desert Renewable Energy Projects. We commend the collaborative efforts and work of the administration and state and federal agencies in proactively addressing complex issues associated with achieving not only the 20% by 2010 Renewable Portfolio Standard (RPS) mandate but also a 33% by 2020 goal.

As a load-serving entity subject to meeting the RPS requirement, our perspective includes those of a developer and a purchaser of renewable energy. On both fronts our main goal is to obtain a permitting process that provides certainty in both the timing and outcome of projects in order to deliver more renewable energy into our system – and to our customers. While renewable developments pose many challenges, we remain confident that renewable projects can be permitted in a timely fashion without compromising the state's rich natural resource heritage. We should not lose sight of the fact that renewable generation is not only mandated, it is a primary method for the energy sector to address climate change impacts including those expected to severely affect desert ecosystems. It is with these goals in mind that we offer the following comments.

I. General Comments

1. Consistent Standards: Renewable energy developers face significant schedule and cost uncertainties, especially in California, due to fluctuating environmental standards. Water use standards, the use of evaporation ponds, mitigation ratios, and the need for and scope of cumulative impact studies are all areas where this has been an issue. Guidance recommendations and permitting requirements should consistently align across agencies, complement other efforts, and avoid duplicative permitting requirements.

Further, there should be a permitting incentive for developers to commit to implementing BMPs early on in the form of expedited permitting review and limited expansion of jurisdiction and mitigation requirements by regulatory staff. To that end, the BMPs should not become minimum requirements but rather voluntary measures that will streamline the permitting processes. Finally, if a developer commits to BMPs in its application, the environmental review should focus only on environmental impacts that may remain after incorporation of the BMPs.

2. Renewable siting standards should not be more restrictive than natural gas standards: Many of the proposed BMPs take the form of new requirements, including dry cooling and zero liquid discharge, and appear to be more restrictive than licensing requirements for large thermal natural gas fired power plants. Renewable developers should be able to demonstrate that utilizing alternative technologies rather than dry cooling and using evaporation ponds instead of zero liquid discharge systems are "environmentally undesirable" or "economically unsound", as required by CEC policy as enumerated in the 2003 Integrated Energy Policy Report.

While renewable energy projects, especially those in the desert region, pose many challenges in terms of use of large acreages, the BMPs should allow regulatory staff to focus analysis on impacts that may occur after implementation of the BMPs. This will incentivize a developer to commit to BMPs early and will allow the staff assessments to be reasonable in size and scope. Due to the large acreages involved, there appears to be a concomitant expansion in the breadth of environmental analysis beyond areas like biology and cultural resources that are clearly influenced by the project footprint. For example, the CEC staff has expanded its review of tailpipe emissions from construction and operations equipment and vehicles far beyond those analyses conducted for gas-fired projects.

3. Flexibility: The pre-application filing guidance should provide flexibility. More specifically, the application process should be allowed to commence when most, but not all, of the critical actions have occurred. For example, approval of interconnection requests are out of the control of project developers and, as such, requiring developers to obtain a completed system impact study and final approval from CAISO before starting the application process could unnecessarily delay projects from beginning environmental review process. In addition, as we learn more about renewable energy development, BMPs need to retain flexibility to change and evolve.

4. Federal Incentives: To take advantage of federal incentives—Department of Energy (DOE) Loan Guarantee and American Reinvestment and Recovery Act (ARRA) Programs, projects must begin construction in 2010. Generally it takes 2 to 3 years lead time to screen sites, conduct biological surveys, prepare designs and compile permit applications. Under this deadline and because the Renewable Energy Action Team's (REAT) draft study areas are not expected to be identified until January 2010, sites currently in the queue for development may or may not be in areas designated for development by REAT.

Projects with any chance of breaking ground in 2010 must be given fast track priority to move development ahead in an expeditious manner. Further we recommend that projects which are located in areas suitable for development, as identified by the REAT, be granted an accelerated permit process and lowered mitigation ratio requirements so benefits of the ARRA and DOE incentives can be captured, and passed along as reduced costs to California energy consumers.

5. Remain neutral on Williamson Act Contracts: We recommend the Guidance Manual remain neutral about Williamson Act Contracts on lands proposed for renewable energy development. Development on previously-disturbed agricultural lands is one way to avoid the more extensive habitat impacts that can occur from development in more pristine areas. Additionally some renewable energy technologies and agricultural uses are compatible, such as grazing and wind.

6. Reasonable modifications from currently applicable laws should be allowed: Regarding the guidance recommendation that a project not require a zoning change or general plan amendment, we recognize the importance of these documents to thoughtfully control and direct development, however many were not prepared with renewable energy development in mind. Compliance with current planning documents should not be a precondition to entitlement processing; rather a developer should be allowed to propose a reasonable and measured plan for revisions consistent with applicable laws.

II. Specific Comments: Technical Disciplines

Air Quality

Page 28, item 5. We suggest changing "in cooperation with" to "if required by."

Page 28 item 5. Please clarify the following statement, "follow protocols established by CARB". To our knowledge, CARB does not have established protocols.

Page 29 item b. We suggest the following modification "Limit traffic speeds on all unpaved site areas to prevent visible dust emissions (VDE) exceeding air district opacity limits."

Page 29, item c. We suggest adding the following to the end of the sentence, "to prevent visible dust emissions (VDE) exceeding air district opacity limits."

Page 29, item 8. We suggest omitting everything except the following, "No heavy duty diesel construction vehicles should idle for more than five minutes, unless in use, to the extent practical.

Plants

Page 35, item 1.

Surveys are normally conducted for listed plant species only. This BMP requires surveys for succulents, Yuccas and cactus as well. We recommend conducting surveys for listed plant species only.

Page 35, item 3. Salvaging and transplanting all succulents, Yuccas and cactus plants on a project site can be an enormous undertaking. We recommend mitigation for listed plant species only.

Avian Species

Page 35, item 1. Based on experience with avian nest surveys surveying within 500 feet of boundaries and linear facilities is excessive for most species, especially passerines. We suggest revising the survey area from within 500 to within 250 feet and adding a statement that larger bird species may require a larger survey area and should be determined on a species-specific basis.

Page 35, item 2. The plan described seems to involve more than monitoring. We suggest adding "a combination of protection, mitigation and" in front of monitoring.

Page 35, item 5. We propose Avian and Bat Protection Plan development be tied to wind facilities as this technology has the highest potential for harmful interaction with avian and bat species.

Desert Tortoise

Global comment. The Authorized biologist should be allowed to delegate certain tasks to other biologists such as those described on page 38 in #8 and #9.

Mohave ground squirrel

Page 38, item 1. We recommend pre-construction surveys for Mojave ground squirrels apply only within the range of the species.

Page 38, item 2.

Is there research to indicate creating artificial burrows is an effective Mojave ground squirrel conservation strategy?

Cultural and Historic Resources

Page 40, item 2. We recommend removing the following "should include the proposed process by which the significant cultural resources will be preserved for the future. This".

Hazardous Materials, Pesticides and Waste Management

Global comment. We recommend further clarifying the scope of activities included in the pre-application phase and the scope recommended as a Best Management Practice.

To this end we suggest the following:
1. A Phase 1 Environmental Assessment Report is included in the pre-application package. If recognized environmental conditions are identified in the Phase 1, they are evaluated by a Phase 2 Investigation and included in the pre-application package and, to the degree necessary, a determination of further work that is necessary. If further work is needed, the applicant must demonstrate that recognized environmental conditions will be addressed under oversight by the Department of Toxic Substances Control, Regional Water Quality Control Board or other local lead agency prior to construction.

2. Department of Toxic Substances Control or other agency must approve that the site remediation is adequate as a condition of CEC approval for construction.

Page 42, item 7. This guidance recommendation adequately covers non-hazardous waste. We suggest including the following to ensure hazardous waste is managed properly, " For hazardous wastes generated, ensure all applicable storage and transportation regulatory requirements are met including the notification of EPA or DTSC of any hazardous waste activity generated by the project."

Page 42, item 8. We suggest including guidance to ensure the timely notification to the responsible agencies if there is a reportable release.

Land Use/Agriculture
Page 17, item 10. This item should be further clarified and refined.

Noise and Vibration
Page 17, item 2 and 3. Recommendations on noise and vibration are technology specific and should apply to applicable facilities such as wind.

Visual Resources
Page 22, item 7. We suggest all references to siting of electric transmission facilities include the following, "final siting authority for transmission facilities rests with the California Public Utility Commission."

Water Supply and Quality
Page 23, item 1. Pre-application activity guidance indicates projects should be designed to use dry cooled technology or recycled/impaired water. We recommend clarifying this recommendation so it is consistent with the CEC requirements for natural gas fired plants.

Page 23, item 1. Please clarify the term "impaired water".

Page 24, item 5. Pre application activity indicates use of groundwater for any purposes other than cooling, e.g. for process or cleaning purposes, be studied for potential impacts. We recommend tailoring aquifer impact studies to the size of the project and potential impacts. For example solar PV projects use very little water in relation to other technologies. Nonetheless water is still required for construction and washing purposes. We also recommend that projects with lower impact to the aquifer or where use of water is less than previous agricultural use not require extensive aquifer studies.

PG&E looks forward to working with all parties as this process moves forward. We greatly appreciate your consideration of our remarks.

Respectfully submitted,

Diane Ross-Leech
Director, Environmental Stewardship