

Memorandum

Date: August 29, 2008
Telephone: (916) 654-4679

To: Commissioner Jeffrey D. Byron, Presiding Member
Commissioner Arthur H. Rosenfeld, Associate Member

From: California Energy Commission – Michelle Woods *MW*
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DOCKET	
08-AFC-1	
DATE	AUG 29 2008
RECD.	AUG 29 2008

Subject: Avenal Energy Project (08-AFC-1) STATUS REPORT 2

Following is Status Report #2 for the proposed Avenal Energy project.

Current Issues and Activities for Resolution

Staff encountered the following issues during the discovery and analysis phases of the Application for Certification (AFC) for the proposed Avenal Energy project:

- California ISO has initiated a new review process which would defer the completion of the project's system impact and facility study until August of 2009¹. To avoid delaying the project's Adoption Hearing beyond the Energy Commission's standard twelve month siting schedule, the applicant has opted to hire a consultant to complete a third party system impact study. Staff participated in a conference call with the applicant on July 20, 2008 to discuss the scope of the study, provided the applicant with an example of a study previously prepared by California ISO, and is continuing to monitor the status of the study. The applicant expects to submit the study to staff in early September.
- Staff filed a second set of data requests on August 22, 2008 for the following technical areas. Note, the water resources section of the data request refers to two attachments: 1) agreements entered into between Mike and Tanya Kochergen of Kochergen Properties and Westlands Water District and 2) a letter, dated May 29, 2008, that Westlands sent to the Energy Commission. These attachments were not docketed with the data request, but are either posted on the Energy Commission's website or are available by submitting a request to the Energy Commission docket staff. For more information, please refer to the following link: www.energy.ca.gov/sitingcases/avenal.
 - Data Requests #76 and 77 (Air Quality): Requests the applicant to 1) describe the possibility that mitigation offsets might be discounted and 2) to demonstrate that proposed mitigation offsets are representative of real

¹ Instead of reviewing proposed power generating facilities according to the order in which applicants file interconnection requests, the California ISO is now using a cluster process in which requests received during a particular time period are reviewed as a group. Avenal Energy is part of Group #2 (Transition Cluster).

and surplus reductions (San Joaquin County Air Pollution Control District Rule 2201, Section 7).

- Data Requests #78-88 (Cultural Resources): Recommends participation of a geoarchaeologist for the planned geotechnical study to reduce archaeological monitoring requirements and requests more information about the potential impacts of: 1) the historically significant Tesla-Midway 230-kV transmission line, the potential impacts of pull sites and access roads, 2) natural gas line routes, 3) proposed rock features on the east corner of the plant site, and 4) proposed storm sewer system.
- Data Request #89 (Waste Management): Requests the applicant to provide a Phase I Environmental Site Assessment for the natural gas pipeline corridors and electric transmission line interconnection route.
- Data Requests #90 - 94 (Water Resources): Requests the applicant to confirm 1) the validity of an agreement for a back-up water supply entered into with Mike and Tanya Kochergen of Kochergen Properties, 2) the need for an updated water agreement that is consistent with the operational capacity of the project, and 3) additional actions that are necessary to ensure the reliability of the back-up water supply, and 4) documentation approving the use of non-potable water for the project's sanitation needs.

Note: staff received documentation indicating that Kochergen Properties, Inc. entered into agreements which transferred full operational control of agricultural wells identified in the AFC as a back-up water supply to Westlands Water District. As a result of Westlands' opposition to increased demands on the groundwater basin, the ownership and availability of the project's back-up water supply is uncertain.

Agency Comments

- The United States Environmental Protection Agency (USEPA) submitted comments, dated July 10, 2008, to Mr. Peter Cross of the United States Fish and Wildlife Service (USFWS) requesting the initiation of a formal consultation under Section 7 of the federal Endangered Species Act. The primary purpose of the consultation is to ensure that the construction and operation of Avenal Energy would not jeopardize the continued existence of the San Joaquin kit fox or result in the adverse modification of kit fox critical habitat. In addition, the USEPA also requested the USFWS to prepare a Biological Opinion concurring that Avenal Energy is not likely to adversely affect other federally endangered plant and wildlife species including San Joaquin woollythreads, California jewel flower, blunt-nose leopard lizard, and tipton kangaroo rat. Staff will continue to monitor the USEPA consultation and expects to confer with the USFWS in early September.
- The San Joaquin Valley Air Pollution Control District submitted a preliminary determination of compliance (PDOC) to the Energy Commission on July 11,

2008. In its comments on the PDOC, dated August 12, 2008, staff identified several areas of concern including: 1) discounting emission reduction credit offsets in compliance with Rule 2201, Section 7, 2) the impact of one-to-one interpollutant trading for oxides of sulfur (Sox) reductions, 3) setting performance standards for ammonia slip, and 4) potential exemptions from the New Source Performance Standard (NSPS).

- On August 27, 2008 staff conferred with the Reef-Sunset School District and the Kings Area Rural Transit District about bus service along the Avenal Cutoff Road. The school district and transit district confirmed that Avenal Cutoff Road is on a bus route that serves the city of Avenal, three and six times a day respectively. Staff will include an analysis in the PSA of the potential impact of construction traffic on the bus routes.

Schedule

Due to the high volume of projects currently under review by the Energy Commission, additional time is needed to complete some of the technical sections required for the Preliminary Staff Assessment (PSA). As a result, staff believes it is necessary to adjust the publication of the PSA and the PSA workshop. This change would allow the applicant's responses to staff's data requests filed on August 22, 2008 to be incorporated into the PSA.

The following table summarizes staff's adjustments to the committee schedule:

Avenal Energy Siting Committee Schedule

Date	Event
April 16, 2008	AFC data adequate
May 23, 2008	Data Request #1
June 20, 2008	Applicant files response to Data Request #1
July 1, 2008	Data Response and Issue Resolution Workshop
July 3, 2008	Status Report #1
August 14, 2008	Local, State, and Federal Agency draft determination, including air district's Preliminary Determination of Compliance (PDOC) filed.
August 30, 2008	Status Report #2
October 7 2008	Preliminary Staff Analysis (PSA)
October 13, 2008	Local, State, and Federal Agency final determinations filed.
October 21 , 2008	PSA Workshop
October 30, 2008	Status Report #3
November 12, 2008	Final Staff Assessment (FSA)
TBD	Pre-hearing conference
TBD	Evidentiary hearings
TBD	Presiding Member's Proposed Decision issued for 30-day comment period.

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TBD	Presiding Member's Proposed Decision committee conference.
TBD	Commission Adoption Hearing

Shaded items have already occurred.

Proof of Service List
Dockets