

1.6:1 from the VOC sources in the South Coast Air Basin. ... The [applicant's] February 16, 1999 letter does not include a discussion of the effects of the facility emissions on air quality downwind of the source. ... Consideration of the downwind effects may be required in establishing the appropriate ratio." EPA also raised issues regarding whether the offsets from the George Air Force Base are real, quantifiable, permanent, and surplus. In a letter dated March 18, 1999 to Richard Buell, California Unions for Reliable Energy (CURE) submitted comments on the applicant's February 16, 1999 and March 8, 1999 letters to Matt Haber and identified CURE's goals and objectives for interpollutant trading. On March 23, 1999, in a letter to Mr. Andrew Welch, staff also presented comments on the applicant's February 16, 1999 and March 9, 1999 letters to Matt Haber, and identified our interpollutant offset principles.

The comments and issues raised by the parties were to be discussed at workshops scheduled for April 1, 1999. At the request of the applicant and CURE, the workshop was canceled. Based on our most recent conversations with the applicant and CURE, we understand these parties are attempting to reach agreement on all disputed areas by the Second Prehearing Conference on April 16, 1999. If such an agreement is reached, we hope to receive confirmation of EPA's concurrence shortly thereafter. Without knowing the details of the agreement, we do not know yet whether our interpollutant offset principles have been addressed. Since we will not have this information in sufficient time to evaluate it before the Second Prehearing Conference, we are likely to have limited comments at the proceeding regarding the status of issue resolution. In addition, South Coast Air Quality Management District approval of the use of interpollutant offsets from their district is still pending.

WATER RESOURCES

The one outstanding issue regarding water resources relates to the effectiveness of measures being considered to mitigate project impacts on ground water. The Mojave Water Agency (MWA) has provided preliminary conditions for providing State Water Project (SWP) water to the project, and the Victor Valley Water District (VVWD) has provided preliminary conditions for use of ground water as a backup water supply for the project. However, there is a question about the effectiveness of one of these conditions -- banking of surface water in a ground water aquifer. The California Department of Fish and Game (CDFG) and the United States Fish and Wildlife Service (USFWS) have raised concerns that the condition may not be effective in preventing impacts to riparian habitat along the nearby Mojave River.

On March 12, 1999, staff conducted a workshop on water resources to discuss issues regarding how to model the effectiveness of ground water banking. This workshop was continued to March 16, 1999, when the details of the applicant's modeling protocol were agreed to by the parties. The applicant agreed to provide the modeling results by April 7, 1999. However, on April 7, 1999, at the request of CURE the applicant informed staff that results would not be provided until the following week. Therefore, staff will not be in a position to make any definitive conclusions on the adequacy of the modeling analysis and scheduling implications at the Second Prehearing Conference on April 16, 1999. We note that the Mojave Water Agency must approve any banking proposal that is part of the project. In addition, USFWS, CDFG, staff, local agencies, and the

applicant will need to meet to decide what conditions of certification are necessary to implement the applicant's revised water plan, should the parties find that plan adequate.

PUBLIC HEALTH

In CURE's February 17, 1999 comments on the Staff Assessment CURE stated: "Based on this preliminary analysis, it appears that the sulfate emissions from the Project's cooling towers will greatly exceed the acute HHI of 1.0. This is a significant public health impact that must be mitigated. We will provide additional comments on this issue when we have completed our analysis." On March 30, 1999, CURE informed staff that CURE's complete analysis was not yet available, but that this issue was under negotiation with the applicant. CURE indicated that they would provide information later that would address this issue. Consequently, at this time, staff is not certain whether there are any remaining issue regarding public health.

WITNESS IDENTIFICATION AND QUALIFICATIONS

Staff's witnesses by topic area, and their qualifications, can be found in the Staff Assessment. On March 19, 1999, staff filed a supplemental list of witnesses and their qualifications. Staff is now proposing to substitute Eileen Allen for Richard Buell as staff's witness for Project Description.

EXHIBITS

The only exhibits that staff will introduce are: 1) the Staff Assessment, 2) March 19, 1999 errata to the Staff Assessment, 3) supplemental testimony filed on March 25, and April 9, 1999, and 4) supplemental testimony to address air quality and water resources (filing dates to be determined).

PROPOSED SCHEDULE

Staff is prepared to participate in hearings on the twenty-one technical areas identified above. However, two areas remain unresolved at this time: air quality and water resources. In our February 9, 1999 Prehearing Conference Statement, we recommended bifurcating the hearings to address those issues ready for hearings and delaying hearings on the remaining unresolved issues. We remain willing to proceed with a bifurcated hearing schedule should the Committee so wish.

At this time staff has no knowledge of the content or progress of the discussions between the applicant and CURE. Nor do we know whether the negotiations will resolve outstanding issues to the satisfaction of all agencies and parties involved in this proceeding. Consequently, we can not recommend a definitive schedule for the remainder of the proceedings. In addition, we are not likely to be in a position to comment on a reasonable schedule for the areas of air quality and water resources at the Second Prehearing Conference.

We do note that, Alan De Salvo, representing the Mojave Desert Air Quality Management District (District), indicated that the District would require 30 days, at a

maximum, to issue a final Determination of Compliance (DOC), after receipt of EPA's confirmation of its concurrence with the agreement between CURE and the applicant. If EPA recommends that a revised Preliminary DOC be issued, this would add 30 days for public review of the Preliminary DOC, and 15 days to issue the Final DOC. Staff will require an additional 21 days to incorporate the final DOC conditions in its testimony. Staff also plans to hold a workshop to discuss staff's proposed conditions of certification prior to proceeding to hearings. A workshop could add another 14 days to the schedule. Staff believes parties could be ready for hearings on air quality in approximately 65 to 110 days after receipt of EPA's concurrence with the agreement between CURE and the applicant.

Assuming the ground water modeling provided on April 7, 1999 is complete and adequate, staff believes the parties would be ready to proceed to hearings in 45 days after the Second Prehearing Conference. This estimate is based on approximately 30 days being required for preparation of written testimony, and 14 additional days to conduct workshops to ensure that parties agree to the conditions of certification proposed by staff.

Respectfully submitted,

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