CALPINE

LOS ESTEROS CRITICAL ENERGY FACILITY
800 THOMAS FOON CHEW WAY
SAN JOSE, CALIFORNIA 95134

March 23, 2006

Mr. Lance Shaw
Compliance Project Manager
Systems Assessment & Facility Siting Division
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

RE: PETITION TO AMEND LOS ESTEROS CRITICAL ENERGY FACILITY'S CONDITIONS OF CERTIFICATION APPLICATION 03-AFC-02

Dear Mr. Shaw:

Pursuant to Section 1769 of the California Energy Commission (CEC) Siting Regulations, Los Esteros Critical Energy Facility (LECEF), hereby submits the attached Petition to amend LECEF's Conditions of Certification, Waste-6.

Please contact me at (408) 361-4954 if you have any questions regarding this submittal.

Sincerely,

Chuck Spandri
Compliance Manager
Calpine South Bay Projects

MAILING ADDRESS: 3800 CISCO WAY, SAN JOSE, CA 95134 • (408) 456-2690 • (408) 456-0421 (FAX)

PETITION FOR INSIGNIFICANT AMENDMENTS TO OPERATIONS CONDITIONS OF CERTIFICATION

As required by Section 1769 of the CEC Siting Regulations, LECEF hereby submits the following discussion to amend Waste-6 of LECEF's Application for Certification 03-AFC-02.

Pursuant to Section 1769 (a)(1)(A) and (B), a description of the proposed modifications, including new language for affected conditions and the necessity for the modifications is required.

The modifications proposed to the condition of certification is as follows:

In order to submit Soils Management Plan (SMP) that reflects current LORS and site conditions; and to prevent the necessity to submit amendments to the SMP as these items change; we are requesting the following change:

WASTE-6 The project owner shall prepare and submit to the CEC CPM a Soils Management Plan (SMP) prior to any earthwork. The SMP must be prepared by a California Registered Geologist, a California Certified Engineering Geologist, or a California Registered Civil Engineer with sufficient experience in hazardous waste management. The SMP shall be updated as needed to reflect changes in laws, regulations or site conditions. A SMP summary report, which includes all analytical data and other findings, must be submitted once the earthwork has been completed. Topics covered by the SMP shall include, but not be limited to:

- Land use history, including description and locations of known contamination.
- The nature and extent of previous investigations and remediation at the site.
- The nature and extent of unremediated areas at LECEF.
- A listing and description of institutional controls, such as the City's excavation ordinance and other local, state, and federal regulations and laws that will apply to LECEF.
- Names and positions of individuals involved with soils management and their specific role.
- An earthwork schedule
- A description of protocols for the investigation and evaluation of historically related chemicals such as DDT and previously unidentified contamination that may be potentially encountered, including any temporary and permanent controls that may be required to reduce exposure to onsite workers, visitors and the public.

- Requirements for site-specific Health and Safety Plans (HSPs) to be prepared by all contractors at LECEF. The HSP should be prepared by a Certified Industrial Hygienist and would protect onsite workers by including engineering controls, monitoring, and security to prevent unauthorized entry and to reduce construction related hazards. The HSP should address the possibility of encountering subsurface hazards including hazardous waste contamination and include procedures to protect workers and the public.

- Hazardous waste determination and disposal procedures for known and previously unidentified contamination.

- Requirements for site-specific techniques at the site to minimize dust, manage stockpiles, run-on and run-off controls, waste disposal procedures, etc.

- Copies of relevant permits or closures from regulatory agencies

- **Verification:** 45 days prior to ground disturbance, except for earth work related to the permanent storm water outfall located outside the fence line of the project, ~~Within 45 days of the final Energy Commission Decision,~~ the project owner shall submit a draft SMP to the CPM for review and approval. The SMP shall also be submitted to the Berkeley office of the California Department of Toxic Substances Control (DTSC or its successor) for review and comment. All earthworks at the site shall be based on the SMP. A SMP summary shall be submitted to CPM and DTSC within 25 days of completion of any earthwork.

Pursuant to Section 1769 (C), a discussion is required on if the modification is based on information that was known by the petitioner during the certification proceeding, and an explanation of why the issue was not raised at that time.

The change being requested to WASTE-6 is based on a new thought process in which it is believed that the SMP will be more accurate and reflect current site conditions if it were submitted closer to the time frame in which ground disturbance is to occur.

Pursuant to Section 1769 (D), a discussion is required on whether the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, and explanation of why the change should be permitted.

The proposed change to WASTE-6 is based on information evaluated after the completion of the certification process during the operational phase of the project. Since the change is administrative and improves the accuracy of compliance determinations, Calpine believes the proposed change does not undermine the assumptions, rationale, findings or other bases of the final decision.

Pursuant to Section 1769 (E), an analysis of the impacts the modifications may have on the environment and proposed measures to mitigate any significant adverse impacts is required.

The proposed change to the condition of certification does not result in any significant adverse environmental impact.

Pursuant to Section 1769 (F), a discussion of the impact of the modification on the facility's ability to comply with applicable laws, ordinances, regulations, and standards is required.

The proposed amendment will have a positive impact on the facility's ability to comply with applicable laws, ordinances, regulations, and standards. The proposed change will allow the SMP to include the most current LORS at the time of ground disturbance.

Pursuant to Section 1769 (G), a discussion of how the modifications affect the public is required.

Calpine asserts that the proposed modification to the condition of certification will not adversely affect the public.

Pursuant to Section 1769 (H), a list of property owners potentially affected by the modification is required.

The proposed amendment is administrative in nature; therefore no property owners will be affected by the modification.

Pursuant to Section 1769 (I), a discussion of the potential effect on nearby property owners, the public and the parties in the application proceedings is required.

The proposed amendment will have no impact on property owners, the public, or any other parties.