

BEFORE THE  
STATE OF CALIFORNIA  
ENERGY RESOURCES CONSERVATION  
AND DEVELOPMENT COMMISSION

LOS ESTEROS  
CRITICAL ENERGY FACILITY  
PHASE 2

Docket No. 03-AFC-2  
CARE's Evidentiary Hearing  
Statement

CARE hereby provides a list of issues, witnesses and exhibits in response to the Committee order of June 17, 2005. CARE objects to the Committee's abandonment of the Prehearing Conference required by Section 1718.5 of the Rules of Practice and Proceed for undisclosed reasons and a presumption that no significant issues remain. The June 17 order states "Circumstances dictate we conduct this Hearing without benefit of a Prehearing Conference. We anticipate much of the evidence will be undisputed and submitted by declaration without the presence of sponsoring witnesses." CARE contends that the committee is fully aware of the existing significant issue raised by CARE on behalf of the Silicon Valley Bicycle Coalition (SVBC) related to the destruction of the bike path near the project... At the Los Esteros Phase 1 PMPD conference the Presiding Member commented:

22 PRESIDING MEMBER PFANNENSTIEL: I'd just  
23 like to encourage Calpine to try to resolve this  
24 before it comes up in phase 2. I think that we  
25 sort of know what the issues are now, and we  
1 understand that there are a lot of parties  
2 involved. And I think it's going to take some  
3 leadership to get it resolved. But I think it  
4 shouldn't carry on for another length of time.  
Los Esteros PMPD Conference (RT 3-14-05 p. 32, 33)

At the business meeting to approve Phase 1 the Committee promised and the commission endorsed a resolution of this issue before commencement of the Phase 2 hearings.

6 Nevertheless, if the damage resulted  
7 from project construction, it should be corrected.  
8 The Committee encourages the applicant to work  
9 with the affected parties to repair the damage  
10 within the near future or the issue will be made  
11 a part of the record in phase 2 of these  
12 proceedings.  
(Hearing Officer Bullion Business Meeting RT 3-16-05, p. 62)

For the committee to now state that no significant issues exist to necessitate a Prehearing conference is bewildering. CARE is also concerned that the FDOC for this project has not been issued by the BAAQMD and to proceed with evidentiary hearings is indeed premature. Nonetheless CARE now attempts to provide this Evidentiary Hearing statement to comply with the Committee order of June 17.

#### **CARE'S discussion with the other parties.**

#### **CEC Staff**

On Monday July 20<sup>th</sup> CARE's representative Bob Sarvey spoke with Staff Attorney Dick Ratliff. Mr. Sarvey expressed concern about the Silicon Valley Bicycle Coalition (SVBC) issue with the destruction of the bike path. Mr. Ratliff indicated that perhaps a settlement of the issues was pending in that Calpine had offered the city of San Jose half of the money to repair the bike path purported to cost \$22,000. Mr. Sarvey replied that if the applicant was willing to stipulate to a condition of certification requiring repair of the path within a reasonable time frame CARE would not pursue this issue. CARE objects to the lack of the Prehearing Conference where this issue could have possibly been resolved. As of Thursday morning June 23 CARE has received no confirmation that the applicant is willing to submit to a condition to repair the path.

Mr. Sarvey also informed Mr. Ratliff that CARE intends to support staffs condition of Certification related to ammonia slip. Once again the

Commissioners lack of support for CEC staffs proposal of a 5 ppm ammonia slip endorsed by CARB and the EPA forces adjudication of an issue which has surface in almost every siting case before the CEC in the last four years. . CARE considers staffs approach as reasonable and if the applicant does not want to comply CARE believes offsets should be provided to mitigate the PM 2.5 that will result form the applicants ammonia slip or the project should be required to install the SCONOX technology that will eliminate all ammonia slip issues. Mr. Sarvey also informed Mr. Ratliff that CARE opposes the Best Available Control Technology determination for CO that still remains unresolved due the lack of an FDOC for the project. CARE's position is that CO emissions should be limited to 4 ppm and CARE's position is backed by the EPA in their comments on the PDOC for the LECEF. CARE has contacted Ms. Kelly of the EPA and is anticipating presenting a witness from the EPA or a Declaration from Mr. Rios pending management approval. This expediated hearing schedule hampers CARE's ability to provide expert witnesses to resolve this issue and the bike path issue. Again CARE reiterates its objection to the lack of a Prehearing conference and an FDOC for this project. CARE requested that Staff provide its air quality and biology experts for cross examination.

### **Applicant**

Mr. Sarvey spoke to the applicant's representative on Monday Mr. Steve De Young. Mr. Sarvey informed Mr. De Young of CARE's issues and requested that the Applicant air witness be provided.

### **CARE's Witness list**

CARE intends to provide a representative from the EPA and the prepared testimony will consist of the EPA's comments on the PDOC attached to this submission. (Attachment A) CARE is also attempting to provide a representative from the Silicon Valley Bicycle Coalition. The short notice of this hearing and lack of a Prehearing Conference make a comprehensive list of witnesses impossible at this time.

### **Exhibit List**

- 1) EPA comments on the PDOC Attachment A

Respectfully submitted,

*Michael E. Boyd*

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Michael E. Boyd  
President  
CALifornians for Renewable  
Energy, Inc. (CARE)  
5439 Soquel Drive  
Soquel, CA 95073

#### **Verification**

I am an officer of the Commenting Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23<sup>rd</sup> day of June 2005, at Soquel, California.

*Michael E. Boyd*

Michael E. Boyd – President, CARE  
CALifornians for Renewable Energy, Inc. (CARE)  
5439 Soquel Dr.  
Soquel, CA 95073-2659  
Tel: (408) 891-9677  
Fax: (831) 465-8491  
E-mail: [michaelboyd@sbcglobal.net](mailto:michaelboyd@sbcglobal.net)

# Attachment A



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

April 29, 2004

03-AFC-2

CALIF ENERGY COMMISSION

MAY 13 2005

RECEIVED IN DOCKETS

Mr. Brian Bateman  
Director of Engineering  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

RE: Los Esteros Critical Energy Facility  
Revised Preliminary Determination of Compliance

Dear Mr. Bateman:

Thank you for the opportunity to review the revised Preliminary Determination of Compliance (PDOC), dated March 16, 2005, for the proposed conversion of the Los Esteros Critical Energy Facility (LECEF) from simple-cycle to combined-cycle operation. The facility currently consists of four natural gas-fired LM6000 simple cycle combustion turbines with a combined nominal output of 180 MW, a fire pump diesel engine, and a one-cell cooling tower. The facility's control strategy consists of water injection and selective catalytic reduction (SCR) for minimizing nitrogen oxide (NOx) emissions and oxidation catalyst for controlling carbon monoxide (CO) emissions. The modifications for the conversion to combined-cycle operation will increase the facility's nominal output to 320 MW. The facility was originally permitted under an expedited permitting process in 2002 which required LECEF to convert to combined-cycle operation and conduct a new Best Available Control Technology (BACT) analysis or shutdown. EPA's comments regarding the revised PDOC are in the attached enclosure.

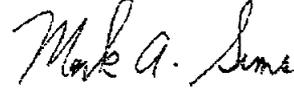
In summary, we agree with the District's conclusion that BACT for NOx is 2.0 ppmvd corrected to 15% oxygen with a 1-hour averaging period. However, we are concerned about the proposed CO BACT determination because other facilities are achieving lower emission rates. Finally, we recommend that the start-up/shutdown PDOC requirements be revised to eliminate ambiguous permit language.

PROOF OF SERVICE (REVISED 12/16/04) FILED WITH  
ORIGINAL MAILED FROM SACRAMENTO ON 5/13/05

*San*

We appreciate the District's cooperation and look forward to working with you and your staff to address our comments prior to the issuance of the Final Determination of Compliance (FDOC). We also want to thank you for extending the time to April 29, 2005, by which EPA could submit comments regarding the PDOC. Should you have any questions regarding this matter, please contact Shaheerah Kelly, of my staff, at (415) 947-4156.

Sincerely,



*for* Gerardo C. Rios  
Chief, Permits Office  
Air Division

Enclosure

cc: Mike Tollstrup, California Air Resources Board  
Robert Worl, California Energy Commission  
Gabriel Taylor, California Energy Commission  
Rick Tetzloff, Regional Engineering Calpine Corporation

## ENCLOSURE

### EPA Comments Regarding the Los Esteros March 16, 2005 Revised PDOC

#### CO BACT

The proposed combined-cycle conversion project triggers the BACT requirement for CO under the District regulations (District Regulation 2, Rule 2, NSR), which are also part of the California State Implementation Plan (SIP). The engineering evaluation for the March 15, 2005, PDOC states the applicant originally agreed to a CO limit of 4.0 ppmvd that would have applied at all times except start-up and shutdown. It also states that since the originally proposed CO limit was based on meeting a NOx limit of 2.5 ppmvd, the facility requested an increase to increase the CO limit to 9.0 ppmvd in order to meet the lower NOx limit of 2.0 ppmvd. According to the engineering evaluation, LM6000 Sprint gas turbines, which utilize water injection and selective catalytic reduction (SCR) for NOx control, would have to increase use of water injection to meet the lower NOx limit which would result in an increase in CO emissions that will likely exceed the 4.0 ppmvd on occasion.

In addition, the engineering evaluation states that because no CO emission level has been achieved in practice for a NOx limit of 2.0 ppmvd, the District must determine CO BACT based on cost-effectiveness and technical feasibility, but then states that the District's cost-effectiveness criteria of CO is zero dollars per ton of CO reduced. Based on this, the District has determined that additional reduction of CO beyond achieved-in-practice levels does not justify the additional cost. LECEF has provided data from a water injection experiment in its December 28, 2004, letter to the District showing how the facility expects CO emissions to increase as NOx emissions are decreased at a turbine unit.

We are concerned that the analysis did not include information from other similar facilities already operating and meeting the 4.0 ppm CO concentrations or better. For instance, Las Vegas Cogeneration is a combined cycle cogeneration power plant located in Clark County, Nevada. The facility has the same gas turbine configuration and control strategy as LECEF. The facility was permitted in 2000 and has been operating since at least 2003. The facility consists of five gas turbine generator units, four of which are subject to BACT limits of 2.0 ppmvd for both NOx and CO. The operating data for this facility shows that the facility has been consistently emitting 3.0 ppmvd or less both when meeting a 2.0ppm NOx limit and during transient conditions. Based on this information, we believe that Los Esteros should be able to meet its original commitment of 4.0 ppm CO when using a CO catalyst.

#### NOx BACT

In a December 16, 2004, letter to the District, EPA commented on the proposed September 28, 2004, PDOC for LECEF that BACT applies to the proposed combined-cycle project. EPA commented that the District must apply current BACT for NOx, which is no greater than 2.0 ppmvd with a 1-hour averaging period. In the March 16, 2005, PDOC, which is the most recent proposal, the engineering evaluation concluded that the project triggers the BACT requirement for NOx under the District regulations (District Regulation 2, Rule 2, NSR)

and the PDOC has been revised to require a BACT emission limit of 2.0 ppmvd corrected to 15% oxygen with a 1-hour averaging period. EPA agrees with this BACT determination for NOx. We are pleased that the District revised the PDOC to include the 2.0 ppmvd emission limit.

Based on discussions with Steve Hill, it is our understanding that the District is allowing Los Esteros to include language to address a limited number of excursions related to the NOx BACT concentration limit because the facility, like Pico Power, is expected to be a "load following" facility. Given that information, we have chosen not to comment on the need for such language as we do not have enough information to agree or disagree with the necessity of that language. However, if LECEF were a "baseload" facility, EPA would be concerned with such language as it would not be justified given that other baseload facilities such as the Las Vegas Cogeneration is able to meet a 2.0 ppm NOx limit.<sup>1</sup>

### Start-up/Shutdown Conditions

Conditions 20 and 21 of the PDOC give time limits for the for the start-up and shutdown periods for each turbine. However, the conditions also state that the time limits may be changed based on good engineering practice that has been approved in advance by the District. EPA disagrees with this language because there would be no firm limit on when BACT would apply and emissions could be increased. EPA recommends removing this language from the permit as follows.

"20. Turbine Start-up: The owner/operator shall operate the gas turbines so that the duration of a start-up does not exceed 240 minutes per event; ~~or other time period based on good engineering practice that has been approved in advance by the District.~~ The start-up period begins with the turbine's initial firing and continues until the unit is in compliance with all applicable emission concentration limits. (Basis: Cumulative increase)"

"21. Turbine Shutdown: The owner/operator shall operate the gas turbines so that the duration of a shutdown does not exceed 30 minutes per event; ~~or other time period based on good engineering practice that has been approved in advance by the District.~~ Shutdown begins with the initiation of the turbine shutdown sequence and ends with the cessation of turbine firing. (Basis: Cumulative increase)"

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<sup>1</sup> We have concluded this based on operating data from the Las Vegas Cogeneration facility during the second and third quarters of 2004.

**From:** Michael Boyd <michaelboyd@sbcglobal.net>  
**To:** <docket@energy.state.ca.us>, Karen Mitchell <kam@eslawfirm.com>, <rtetzloff@calpine.com>, <steve4155@astound.net>, "Greggory L. Wheatland" <glw@eslawfirm.com>, <rich.buikema@ci.sj.ca.us>, <mtollstr@arb.ca.gov>, <jch@rb2.swrcb.ca.gov>, <jmiller@caiso.com>, <ddavy@ch2m.com>, <dratliff@energy.state.ca.us>, <mdjoseph@adamsbroadwell.com>, <ljaimes@scvwd.dst.ca.us>, <sarveybob@aol.com>, <e.bouillon@comcast.net>, <rworl@energy.state.ca.us>, <pao@energy.state.ca.us>, <psimmons@energy.state.ca.us>  
**Date:** 6/23/2005 11:28:58 AM  
**Subject:** 03-AFC-2 LECEF CARE's Prehearing Conference statement

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