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DOCKET
09-AFC-4
DATE APR 08 2010
RECD. APR 09 2010

Commissioner Jeffrey D. Byron, Presiding Member
Commissioner Robert B. Weisenmiller, Associate Member
Mariposa Energy Project (09-AFC-03)
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

April 8, 2010

Re: MHCSD Resolution R-MMX-4 Opposing the Mariposa Energy Project

Dear Commissioners Byron and Weisenmiller:

This letter is in response to the Mountain House Community Services District ("Mountain House" or "MHCSD") Board Resolution Number R-MMX-4 regarding the Mariposa Energy Project ("Mariposa" or "the Project"), dated March 10, 2010, and docketed at the CEC on April 8, 2010. In reviewing the Resolution, we are concerned about a number of factual inaccuracies in that document. In particular, we feel the District does not have an accurate understanding regarding the safety and environmental impacts of the Project and we would like to ensure that all parties have accurate information regarding these issues.

As the developers of the Project, Diamond Generating Corporation ("DGC"), through its subsidiary Mariposa Energy, LLC ("Mariposa Energy"), appreciates the interest in Mariposa expressed by the MHCSD Board and takes seriously the concerns and questions raised by the MHCSD. DGC has a track record of being a good neighbor, developing positive relationships with members of the communities in which we operate, and valuing the constructive input of all parties as we develop our projects.

In this regard, Mariposa Energy has done extensive outreach to MHCSD and other surrounding communities, offering in-depth presentations to MHCSD, meeting with Board members and staff, and attending the MHCSD Board Meetings on a regular basis to ensure we are available to answer any questions the Board or the residents may have. Mariposa Energy has also made two in-depth presentations to MHCSD, the first to the MHCSD staff on April 9, 2009, and the second to the MHCSD Board on July 8, 2009. We have also had numerous other meetings and communications with MHCSD Board Members and staff, and members of the Mountain House community, since we filed our AFC, including a meeting on February 4, 2010, and most recently on March 10, 2010. Mariposa Energy did not oppose MHCSD's intervention into this

proceeding, and in fact encouraged both the MHCSD Board and Staff to participate in the workshop held in December 2009.

At the Board Meeting on March 10, 2010, at which this Resolution was passed, Mariposa Energy was not given an opportunity to discuss the numerous factual inaccuracies in this Resolution. A video of the meeting may be viewed on line, under item #2, at http://mountainhouse.granicus.com/MediaPlayer.php?view_id=2&clip_id=112. We are disappointed that the MHCSD Board chose to pass this Resolution opposing the Project without giving us an opportunity to address specific errors contained therein.

We would like to take this opportunity to address the most serious errors in the Resolution below.

"WHEREAS, said proposed power plant will have negative impact in the form of air pollution on our community (in a county already in non-compliance) and our citizens"

> Mariposa Energy conducted a thorough air quality and public health impact analysis for the Project. This analysis included receptors within Mountain House, including the daycare facilities and the existing and proposed schools. The results of the air quality and public health analyses for the Project, both on a stand-alone basis and on a cumulative basis with other foreseeable projects shows that the impacts associated with the Project and the cumulative sources are less than the ambient air quality standards and the public health significance criteria established by the Office of Environmental Health Hazard Assessment. Therefore, Mariposa is not expected to result in a significant negative air quality or public health impact to the surrounding communities, including the residents of Mountain House. All of these analyses have been provided as part of the original AFC or as supplemental information docketed at the CEC.
>
> As part of the CEC licensing process and the air permitting process at the Bay Area Air Quality Management District ("BAAQMD"), independent analyses are being performed by the CEC and BAAQMD. These analyses will confirm Mariposa Energy's findings before the Project is approved.
>
> Emissions from Mariposa will be completely offset using procedures approved by the CEC, BAAQMD, and the San Joaquin Valley Air Pollution Control District ("SJVAPCD"). Mariposa Energy has already procured emission reduction credits ("ERCs") in the BAAQMD which fully satisfy all State and Federal air quality requirements. Mariposa Energy has also signed a Mitigation Agreement with the SJVAPCD to provide additional funds for air quality mitigation in that neighboring air district.

"WHEREAS, Mariposa Energy, LLC has acquired or plans to acquire air pollution credits to offset regional or state-wide air pollution, but has not addressed the potential air quality degradation in Mountain House"

As discussed above, Mariposa Energy has addressed potential air quality impacts in Mountain House, by including receptors in Mountain House in our air quality and public health impact analyses, both of which show that Mariposa will have neither significant air quality nor public health impacts.

The facility has been designed to emit at the lowest possible air emission levels through the use of best available control technology ("BACT"), with a resulting loss of some plant efficiency and at an additional cost to the Project. The requirement that a plant utilize BACT ensures that emissions and potential impacts are minimized, even before any ERCs are purchased or other mitigation is performed.

Moreover, as discussed above, Mariposa Energy has not only acquired ERCs to comply with local, state, and federal requirements, but we have signed an additional air quality mitigation agreement with SJVAPCD specifically designed to mitigate potential impacts to Mountain House. This agreement provides for $644,000 of funding for air pollution retrofitting and other mitigation projects, specifically in Mountain House, the City of Tracy, and the northern portion of San Joaquin County. The Mitigation Agreement was formulated assuming the ERCs acquired by Mariposa Energy were subject to SJVAPCD rules for providing ERCs and were discounted appropriately.

SJVAPCD has stated that with the purchase of the ERCs and execution of the Mitigation Agreement, it is satisfied that Mariposa Energy has fully addressed the potential air quality impacts in the San Joaquin Valley Air Basin, which includes Mountain House.

"WHEREAS, there is no recognition that First Responder unmitigated obligations rest with the MHCSD safety forces, which include Tracy Fire and San Joaquin Sheriff"

Because Mariposa is located in Alameda County, the Alameda County Fire Department and Alameda County Sheriff's Department are the first responders for the Project. Any response by Tracy Fire or San Joaquin Sheriff would be requested by Alameda County through the adjoining counties' mutual aid agreement, the same way that Alameda County safety forces would respond to an emergency in San Joaquin if requested by San Joaquin County safety forces.

However, Mariposa Energy acknowledges that the Tracy Fire Station located in Mountain House is closer to the site than the nearest Alameda County fire station in Livermore, and as such, Alameda County may request that Tracy Fire assist with certain calls at the Project. Because of the mutual aid agreement and Mariposa's proximity to Tracy Fire's Mountain House Station, we met with both the Alameda County Fire Chief and the Tracy Fire Chief to discuss the Project and address any concerns that that either might have. Both indicated that they had no concerns, and believed our fire suppression systems were adequate. Moreover,

both indicated that they believed the Project would improve the emergency response capability in the area; first by having dedicated fire water on site, which can be made available to either Fire Department if needed for any fire fighting activities in the surrounding area, and second, by having water troughs placed for grazing on the parcel surrounding the Mariposa site which will encourage a lower grass height (fuel load) throughout the year, thus reducing the risk of grass fires which are of major concern in the region.

Finally, we also checked to see if there would be any costs borne by the Mountain House community, should Tracy Fire or the San Joaquin Sheriff stationed at Mountain House be called out to Mariposa. It is our understanding that Mountain House pays a flat fee for these services, not a per-use fee, and therefore Mountain House would incur no costs if San Joaquin safety forces respond to a mutual aid request by Alameda County at Mariposa.

"WHEREAS, Mariposa Energy, LLC has not specifically addressed any potential impacts that may directly affect the Master Planned Community of Mountain House, which was not in physical existence when the related East Altamont Energy Center (EAEC) was licensed within one mile of the Community in 2004"

We have explained to the Mountain House community that we are not related to the proposed East Altamont Energy Center ("EAEC"). EAEC was developed by Calpine Corporation, while Mariposa is being developed by a subsidiary of DGC, a wholly-owned subsidiary of Mitsubishi Corporation. The companies have no relationship with each other, and have divergent approaches, strategies, and philosophies. For example, all of the projects that DGC owns are under long-term tolling agreements, such that they are exposed to neither market nor fuel price risk.

Moreover, EAEC and Mariposa are very different facilities. EAEC is proposed to be combined cycle facility designed with a capacity of 1,100 MW for near continuous baseload operation, located on 55 acres of prime agricultural land, one mile from Mountain House and clearly visible from that community. It would be a water-cooled facility, utilizing over 4,600 acre-feet of water per year. It would utilize anhydrous ammonia for emissions controls, and would have 24,000 gallons of it stored on-site. Finally, EAEC is proposed as a merchant facility.

In contrast to EAEC, Mariposa will be a 194 MW simple cycle facility under long-term contract with PG&E to assist that utility with the integration of intermittent renewable resources in the region, providing quick-start, highly flexible, highly dispatchable energy, capacity, and ancillary services, and meeting a need specifically identified by the state agencies in California that regulate electrical energy. Mariposa is designed as an air-cooled, rather than water-cooled, facility with an expected water usage of approximately 35 acre-feet per year. It will have a 10-acre footprint on non-irrigated grazing land, 2.3 miles from the western border of Mountain House, and will be nestled between two hills to

minimize visual impacts and noise from the facility. Finally, only 19% aqueous ammonia will be used at the facility for emissions controls, and only 8,500 gallons will be stored on-site. While it is more costly to use aqueous ammonia than anhydrous, the use of this form of ammonia minimizes potential impacts should there be a spill or a failure of the ammonia tank. Even if all of the ammonia spilled out of the tank into the secondary containment, the ammonia would be fully contained within the plant boundaries, and in fact would be undetectable beyond 30 feet from the tank. From the above discussion, the contrast between Mariposa and EAEC is quite clear.

To say that Mariposa Energy did not consider the potential impacts to the Mountain House Community Services District is inaccurate. We clearly considered the impacts to Mountain House specifically, as Mountain House is mentioned 89 times in our AFC. After carefully analyzing all potential impacts to Mountain House, we concluded that Mariposa would have no significant impact on this community.

Given all the mitigations we have designed into our Project, it is clear we have considered the potential impacts to surrounding communities. Regarding visual impacts, for example, one of our Key Observation Points, KOP5, is in Mountain House. As can be seen from the simulation of the Project in that KOP, Mariposa is barely visible in the background against the hills, and will only be seen if the grass in the field is freshly mown. Regarding noise, all of our noise studies show that Mariposa cannot be heard from the Mountain House community. Our air quality analysis included many points in Mountain House as sensitive receptors as indicated in the response to a previous point, and confirmed that there will be no significant unmitigated air quality or public health impacts to that community from Mariposa. Moreover, the air modeling included a cumulative impact analysis that modeled EAEC, Tesla, and Waste Management of Alameda County as well as Mariposa, and this cumulative analysis shows that there will be no significant unmitigated impacts, even if all of these plants were built. We considered the socio-economic impacts to the community, and found that the impacts to the region would be positive, not negative, in the form of job creation and local spending. Similarly, we considered water impacts, designing a zero-discharge facility and using air-cooling instead of water-cooling, both at considerable cost. Mariposa Energy not only considered the potential impacts to Mountain House, but carefully designed the Project to minimize any impacts to the surrounding communities.

"WHEREAS, if the California Energy Commission grants a license to Mariposa Energy, LLC in the Alameda/Altamont area, it will lead to the area becoming a power generation corridor with significant impact to Mountain House"

Mariposa Energy disagrees with the conclusion that the approval of the Project will lead to the Alameda/Altamont area becoming a power corridor. We can cite numerous reasons for why we have reached this conclusion, but believe that the most important point is that interconnection and siting is difficult in the region due to environmental and locational constraints. For locations in the Altamont Hills, west of the chosen site for Mariposa, there are no nearby sources of natural gas or water, thereby requiring major construction to bring this required infrastructure to these sites, across the aqueducts which criss-cross the area. Also, there are no substations with significant available capacity that interconnect into the CAISO system in the immediate region, so permitting and construction of a major substation would be required. Construction of this additional infrastructure is costly and adding these additional costs to a project would impact the project's economic viability.

"WHEREAS, the Mariposa Energy, LLC application does not absolutely limit the hours the plant may run for perpetuity, so that the plant may apply to become more than a 'peaker' plant in the future"

While Mariposa Energy cannot guarantee that the Project will remain in its current configuration in perpetuity, this concern is unfounded for a number of reasons. Most importantly, the Project's license that is issued by the CEC will impose strict limits on the hours of operation and the size and configuration of the Project. Any significant modification will require an Amendment or a new application, and a thorough review of the potential impacts by the CEC.

Mariposa Energy signed a 10-year agreement with PG&E that specifies the Project's technical parameters, such as turbine type, ramp rates, and start times, such that we cannot change the technical parameters of the Project without major modifications to the contract. PG&E signed a long-term contract with Mariposa because of its quick-start, highly flexible, highly dispatchable nature to assist in the integration of intermittent renewables into the California grid, to assist PG&E in meeting the Renewable Portfolio Standards mandate, and to assist it in cost-effectively meeting its Target Reserve Margin. A change in the configuration of the Project to a combined cycle facility would negate these benefits.

In addition, the Project was not designed to accommodate future conversion to combined cycle. The proposed site arrangement effectively uses the available space in the small valley, and is constrained to the east and west by small hills, to the north by the existing Byron Cogen facility, and to the south by the parcel boundary. No additional space was set aside for the addition of heat recovery steam generators, a steam turbine generator, or the large cooling towers or air-cooled condenser that would be required to convert Mariposa into a combined cycle facility. Additionally, the technology we are using, General Electric LM6000 PC-Sprint combustion gas turbines, does not lend itself to use in a

combined cycle configuration. Industrial gas turbines, more commonly called "frame" technology," are normally used when there are future plans to convert a peaking facility to a combined cycle facility at a later date, such as what has occurred at the GWF Tracy Project.

As you can see from the above discussion, the Resolution is inaccurate in many significant respects. We continue to believe that if the Board had been better informed, they would have reached a different conclusion. We bring these matters to the Commission's attention, so you may give this Resolution the appropriate weight in this proceeding. Please note that we continue to welcome open communications and dialogue with the Board, staff, and residents of Mountain House, so that they can understand that there will be no significant unmitigated impacts once Mariposa is built.

Sincerely,

Bo Buchynsky
Executive Director

Cc: MHCSD Board President Andy Su
MHCSD Board Member Matthew Balzarini
MHCSD Board Member Jim Lamb
MHCSD Board Member Eric Payne
MHCSD Board Member Bernice King Tingle
Paul Sensibaugh, MHCSD General Manager
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APPLICATION FOR CERTIFICATION FOR THE *MARIPOSA ENERGY PROJECT* (MEP)

Docket No. 09-AFC-3

PROOF OF SERVICE
(Revised 2/8/2010)

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DECLARATION OF SERVICE

I, Megan Sebra, declare that on April,9 2010, I served and filed copies of the attached Mariposa Energy Project MHCSD Resolution. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [http://www.energy.ca.gov/sitingcases/mariposa/index.html].
The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(*Check all that Apply*)

For service to all other parties:

_x_ sent electronically to all email addresses on the Proof of Service list;

___ by personal delivery or by depositing in the United States mail at _____ with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

_X_ **sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);**

OR

_____depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 09-AFC-3
1516 Ninth Street, MS-4
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I declare under penalty of perjury that the foregoing is true and correct.