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DOCKET 09-AFC-3	
DATE	JAN 25 2011
RECD.	JAN 25 2011

State of California
 State Energy Resources
 Conservation and Development Commission

In the Matter of:)	Docket # 09-AFC-03
)	
Mariposa Energy Project)	Pre-hearing Conference Statement
)	SIERRA CLUB CALIFORNIA
)	
)	

a) *The topic areas that are complete and ready to proceed to Evidentiary Hearing;*
 All topics are ready to proceed except biology.

b) *The topic areas that are not complete and not yet ready to proceed to Evidentiary Hearing, and the reasons therefor.*

Biology is not ready to proceed because the Biological Assessment (BA) has not yet been determined to be adequate by the USFWS.

c) *The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;*

Land Use. The project's compliance with ECAP and with the Williamson Act are in dispute, and the Sierra Club claims that the project violates both. Sierra Club also claims the project will cause Alameda County to violate its Climate Action Plan (CAP).

Alternatives. The adequacy of the discussion of the Alternatives is in dispute, and Sierra Club claims that the No Action Alternative is grossly inadequate and legally insufficient.

Need. PG&E's need for the project is in dispute, and Sierra Club claims that PG&E does not have any need for the project.

Hazardous Materials: The safety of PGE's natural gas pipelines has not been discussed at all in light of the disclosures about the San Bruno gas pipe line.

Air Quality. Steps proposed to mitigate the project arguably failed to lessen impact of criteria pollutants to residents of Alameda County and the San Francisco Bay Area. Emissions of ammonia should be mitigated. Testimony on greenhouse gas emissions by staff appears to be defective in significant respects. The proposed project apparently does not envision using Best Available Control Technology for Particulate Matter Emissions or NOX.

Public Health. To our knowledge, neither Staff or applicant have provided a public health assessment of the projects particulate matter impacts on human health in Alameda County and the San Francisco Bay Area.

d) The identity of each witness sponsored by each party (note: witnesses must have professional expertise in the discipline of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; the time required to present direct testimony by each witness; and whether the party seeks to have the witness testify in person or telephonically;

Dick Schneider : Land Use. Co-Author of Measure D. Mr. Schneider will provide testimony on the intent of the citizens who voted for the Measure D which established many policies in the ECAP. Direct testimony should require 30 minutes. Mr. Schneider will also testify the project will cause Alameda County to violate its own CAP. 15 minutes. (In person)

Edward Mainland. Need. Alternatives. Mr. Mainland will provide testimony as to lack of demonstrated need for this project. Mr. Mainland is a Sierra Club energy expert. Direct testimony should require 30 minutes. (In person)

e) Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;

<u>Topic</u>	<u>Witness</u>	<u>Issues</u>	<u>Time</u>
Alternatives	Staff	No Project Alternative	45 min
Need	Applicant	Need	30 min
	Staff	Need	30 min
Land Use	Staff	LORS Compliance	30 min
	Alameda Co.	LORS Compliance	30 min
Hazardous Materials	Staff	Gas Line Safety	30 min
Air Quality	Staff	Project Impacts	15 min
	Applicant	Project Impacts	15 min
Public Health	Staff	Particulate Matter Assessment	15 min

f) A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (as explained in the following

section on Formats for Presenting Evidence);

Exhibit	Brief Description	Offered	Admitted
900	Ed Mainland – Need	1-21-11	
901	Dick Schneider – CAP	1-21-11	

g) Topic areas for which the Applicant will seek a commission override due to public necessity and convenience pursuant to Pub. Res. Code § 25525.

Land Use, Alternatives, Need, Hazardous Materials

h) Proposals for briefing deadlines, impact of vacation schedules, and other scheduling matters

Sierra Club California proposes the opening brief be due three weeks after receipt of the recorded transcript. Reply briefs two weeks after opening briefs.

i) For all topics, any proposed modifications to the proposed Conditions of Certification listed in the Supplemental Staff Assessment (SSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

DECLARATION OF SERVICE

I, Alan Carlton, declare that on January 25, 2011, I served and filed copies of the attached Pre-hearing Conference Statement, Sierra Club California, Mariposa Energy Project (MEP) (09-AFC-3) . 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:

sent electronically to all email addresses on the Proof of Service list;
 by personal delivery or by depositing in the United States mail at Sacramento, California, 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:

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



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