State Of California | The Resources Agency of California

# Memorandum

Date: May 3, 2007
Telephone: (916) 653-1245

DOCKET
06-AFC-5
DATE MAY 0 3 2007
RECD. MAY 0 3 2007

To: Jeffrey F. Byron, Presiding Member
James D. Boyd, Associate Member
Paul Kramer, Hearing Officer

From: California Energy Commission – James W. Reede, Jr., Ed.D
1516 Ninth Street
Sacramento, CA 95814-5512
Project Manager

Subject: **PANOCHE ENERGY CENTER PROJECT (06-AFC-5) STATUS REPORT #2**

Pursuant to the Committee Scheduling order, the following is staff's second status report on the proposed Panoche Energy Center (PEC) project.

**Issue Update**
Staff is continuing to analyze the potential impacts to the San Joaquin kit fox, and the project's proposed water usage, and wastewater underground injection wells. These issues were discussed in detail at a joint Panoche and Starwood Project Data Response Workshop held on April 13, 2007, and will be addressed in the Preliminary Staff Assessment with the appropriate recommendations.

Staff continues to be concerned with the applicant's proposed use of confined aquifer water for turbine cooling. Even though the water is degraded, staff considers it marginally potable. This will be addressed in the Preliminary Staff Assessment with the appropriate recommendations.

**Status of Discovery**
Staff has requested information from the applicant regarding when certain outstanding items will become available and has not received a definitive response. These items are listed below:

1. The San Joaquin Valley Air Pollution Control District's (District) had originally scheduled issuance of the Preliminary Determination of Compliance (PDOC) for February 27, 2007. However, the District does not expect to release the PDOC until May 4, 2007.
2. The Fresno County Board of Supervisors approved the partial cancellation request for the Williamson Agricultural Land Conservation Act contract for the parcel containing the project site on April 24, 2007. The Final Certificates will not be recorded until the County's conditions of approval have been met. Once the county staff receives the recorded Tentative Certificates of Cancellation, they will be forwarded to the Energy Commission. The cancellation findings are expected to be the same as those in the April 4, 2007, Agricultural Land Conservation Committee Staff Report that was filed by the County with the Commission. The Board determined the required findings could be made as discussed in its April 24 agenda item and approved the request. The Board of Supervisors' Minute Orders citing the actions and their related findings have not yet been released, but are anticipated in mid-May.

PROOF OF SERVICE (REVISED 5-1-07) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON MAY 0 3 2007

3. The applicant's United States Environmental Protection Agency (USEPA) Underground Injection Well, Draft Drilling Permit application is still under review. Staff's USEPA contact has not committed to a completion date at this time.

4. Energy Commission staff is awaiting the applicant's submittal of a Biological Assessment to USEPA, a subsequent consultation request regarding the project's potential impact on the San Joaquin kit fox by USEPA to the United States Fish & Wildlife Service (USFWS), and a related Section 7 Biological Opinion on kit fox impact from the USFWS. Discussion between the applicant, USEPA and USFWS are ongoing, and a final completion date of the Biological Opinion is unknown at this time.

**Schedule**

The first round of data requests was issued December 8, 2006, and responded to on January 10, 2007. A second round of data requests was issued on February 28, 2007. The applicant's responses were filed on March 6, 2007. Staff is awaiting the outstanding information items listed above without definitive due dates. Since the progress on the PSA has slipped by approximately three months due to lack of timely receipt of this information, the schedule for filing of the PSA is estimated to now be early June. This is predicated on receipt of the PDOC from the District in early May.

Panoche Proof of Service List

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA**

| | |
|---|---|
| **APPLICATION FOR CERTIFICATION FOR THE PANOCHE ENERGY CENTER** | **Docket No. 06-AFC-5**<br>**PROOF OF SERVICE**<br>**(Revised 5/1/07)** |

**INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:**

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-5
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
**docket@energy.state.ca.us**

**APPLICANT**

Gary R. Chandler
Panoche Energy Center, LLC
P.O. Box 95592
South Jordan, UT 84095-0592

**APPLICANT CONSULTANTS**

Maggie Fitzgerald, Program Manager
URS
2020 East First Street, Suite 400
Santa Ana, CA 92705

**COUNSEL FOR APPLICANT**

Allan Thompson
21 "C" Orinda Way, No. 314
Orinda, CA 94563
allanori@comcast.net

**INTERESTED AGENCIES**

Larry Tobias
Ca. Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
LTobias@caiso.com

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

**INTERVENORS**

CURE
Gloria D. Smith
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
gsmith@adamsbroadwell.com

CURE
Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
mdjoseph@adamsbroadwell.com

**ENERGY COMMISSION**

JEFFREY D. BYRON
Presiding Member
jbyron@energy.state.ca.us

JAMES D. BOYD
Associate Member
jboyd@energy.state.ca.us

Paul Kramer, Jr.
Hearing Officer
pkramer@energy.state.ca.us

James Reede
Project Manager
jreede@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Public Advisers Office
pao@energy.state.ca.us

## DECLARATION OF SERVICE

I, Angela Hockaday, declare that on May 3, 2007, I deposited copies of the attached Status Report #2 for the Panoche Energy Center Project (06-AFC-5), in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

***OR***

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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

Angela Hockaday
*[signature]*