

Memorandum

Date December 8, 2000
Telephone: (916) 654-4176

To : Robert A. Laurie, Presiding Member
Michal Moore, Ph.D., Associate Member
Pastoria Siting Committee

: California Energy Commission - **Kae C. Lewis**
1516 Ninth Street Energy Commission Project Manager
Sacramento, CA 95814-5512

Subject : **STAFF COMMENTS ON THE PASTORIA ENERGY PROJECT (99-AFC-7) DRAFT
PRESIDING MEMBER'S PROPOSED DECISION (PMPD) OF NOVEMBER 17, 2000.**

Staff respectfully submits the following modifications to the Pastoria Energy Project PMPD to your committee for consideration.

BIOLOGICAL RESOURCES

Comments on the Pastoria PMPD

Page 169 – Regarding habitat compensation, second sentence in top paragraph should read: “Prior to the start of any project-related ground disturbance activities, Applicant will pay CNLM ~~a total of no less than~~ \$294,240 (\$1200/acre x 245.2 acres) adjusted for inflation in accordance with Condition **BIO-11**.” Comments: As Condition **BIO-11** indicates, the Applicant must contact CNLM prior to providing the compensation funds so CNLM can inform the Applicant of the final amount that will be required for CNLM to assume responsibility for purchasing the habitat and make it part of the Lokern Preserve. Everyone, including the Applicant, should assume that the final habitat compensation amount will most likely be more than \$294,240.

Page 169 – **California condor** - Comments: The first sentence states “the California condor is not expected to occur within the project area.” A more complete assessment would include the statement that staff received anecdotal information (Keith Babcock personal communication with Rick York) that California condor have been seen in the foothills south of the proposed project site. To address the possibility that condor could come in contact with the project’s new transmission line because the species is known to occur in the project region, staff has suggested that bird flight diverters be added to the new transmission line ground wire(s).

Page 172 – **FINDINGS AND CONCLUSIONS**, Item #7 should be rewritten as follows: “Applicant will provide ~~habitat compensation funds to~~ the Center for Natural Lands Management (CNLM) ~~in the amount of no less than~~ \$294,240 (245.2 acres x \$1200/acre) to purchase ~~at least~~ 245.2 acres of habitat in the CNLM’s Lokern Preserve within the Lokern Natural Area of western Kern County.”

COMPLIANCE
Comments on the Pastoria PMPD

Air Quality

- Page 117, **AQ-39**

“**Verification:** The project owner shall compile required data and submit the information to the CPM in quarterly reports submitted no later than ~~60~~ 30 days after the end of each calendar quarter.”

Biology

- Page 180, **BIO-13**

Protocol: The planned permanent or unexpected permanent closure plan will require the following biological resource-related mitigation measures ~~to be~~ **addressed:**

2. Removal of all power plant site facilities; **and**
3. and wildlife species; **and**

Traffic and Transportation

- Page 245, **TRANS-7**

When possible, the reporting timeframe should be removed from the condition protocol and placed in the verification to permit maximum flexibility for compliance with this condition.

“Protocol: ~~At least thirty days~~ Prior to commencing.....”

“**Verification:** At least 30 days prior to commencing onsite work....”

Noise

- Page 269, **NOISE-1**

Verification of compliance with this condition should be reflected in the Monthly *Compliance* Reports.

“**Verification:** The project owner shall transmit.....in the first Monthly ~~Construction~~ Compliance Report following...
.”

CULTURAL RESOURCES

Comments on the Pastoria PMPD

Cultural Resources, first paragraph, page 197: The last sentence should read: Federal and state laws require a project developer, such a PEF, to implement mitigation measures that **minimize** adverse impacts to significant cultural resources.

1. Methodology, page 197: The second sentence should read: ...conducted research that included a **records search, literature review** and...

Footnote 56, page 197: The footnote should read:

Potential impacts are considered only for those cultural resources that are deemed “significant” or “important” under criteria established by federal and state guidelines. National Historic Preservation Act, 36 CFR 800 et seq; CEQA Guidelines, Title 14, Cal. Code of Regs. § 4850 et seq.) If a cultural resource is deemed significant, it may be eligible for listing on the California Register of Historical Resources (CRHR) and the National Register of Historic Places (NRHP). (See, the National Historic Preservation Act, 16 USC 470, Section 106; California Register of Historical Resources, Pub. Res. Code, § 5024.1.)

Methodology, page 198: Middle of Page. Delete the sentence that reads: “**Project facilities will cross the California Aqueduct, a recorded archaeological site.**”

Methodology, page 199: The final sentence of the 3rd paragraph on this page should read. To **address** her concerns about accurate historical reporting, the parties stipulated and the Committee agreed to **include** her interpretation of the historical data as Exhibit 60.

Conditions of Certification, page 208: Verification (middle of page) should read:
Verification: **At least** 30 days

Conditions of Certification, page 212 (Number 3) should read: For projects for which cultural resource data were recovered, include **1.** and **2.** Above, plus the following:

EFFICIENCY AND RELIABILITY
Comments on the Pastoria PMPD

Efficiency

Page 72, last paragraph, fifth line; replace the words “heat recovery steam generators” with the words “steam turbines”.

Reliability

Page 79, item number 2; after the words “gas turbine generators/HRSGs”, add the words “and two steam turbine generators”.

GEOLOGY AND PALEONTOLOGY

Comments on the Pastoria PMPD

Page 216

liquefaction, ~~hydrocompaction, and shrink-swell behavior~~ in soils beneath the project components and linear facilities that would present potential hazards associated with strong seismic shaking.

2. Hydrocompaction and Expansive Soils

The potential for hydrocompaction and expansion of project soils when wetted is considered to be negligible since the soils at the project site and along the linear facilities alignment are relatively dense and do not contain a high percentage of expansive clay.

Change the numeration to reflect the added text on hydrocompaction and expansive soils.

Page 217, Findings and Conclusions.

3. ~~3.~~ Final project design will include measures to mitigate potential seismic risk from ground rupture, liquefaction, ~~hydrocompaction, and shrink-swell soils associated with strong seismic shaking.~~ and strong ground shaking.
4. The final project design will include measures to mitigate the potential for hydrocompaction and expansive soils.

INTRODUCTION

Comments on the Pastoria PMPD

1. Page 2 (second paragraph):the California Dept. of Health Services, U.S. Army Corps of Engineers, Regional Water Quality Control Board, Wheeler Ridge-Maricopa Water Storage District, **Kern County Water Agency, Westside Mutual Water Company, Kern County Fire Department, Kern County Planning Department,**..... California Unions for Reliable Energy
2. Page 4 (first paragraph): for a new 31.05-acre **parcel originally held leased to the project** by Tejon Ranchcorp
3. Page 4 (last paragraph): the parties **stipulated** (agreed to?) and the Committee
4. Page 6 (second paragraph): Staff then publicizes its initial technical evaluation of a project in a document called the "**Preliminary Staff Assessment**".

PROJECT DESCRIPTION

1. Page 11 (third paragraph):through the services of Azurix, a water brokering firm **co-owned by which is a subsidiary of** Enron.

ALTERNATIVES

1. Page 20 (second paragraph): These included solar, wind, and biomass. Staff determined that solar and wind technologies **are not feasible alternatives because they** would require large land areas **and may result resulting** in significant land use, biological, and visual impacts. **that are not feasible alternatives.**
2. Page 21 (first paragraph): result in fewer environmental effects **that than** the preferred
3. Page 22: In particular, Applicant was interested in locating the site near the Edmonston Pumping Plant based on the possibility of selling electricity to that facility. **(Should this be mentioned if it is not part of the project?)**
4. Page 28 (in list, no. 2):technologies, fuels, **sites**, and the "no project" alternative.

LAND USE
Comments on the Pastoria PMPD

Page 230 under **FINDINGS AND CONCLUSIONS**

1. ~~The Pastoria Energy Facility and its related facilities are permitted uses under the Kern County General Plan and applicable Zoning Ordinances.~~ The Pastoria Energy Facility is consistent with the policies in the Kern County General Plan. The Pastoria Energy Facility is a conditional use in the Exclusive Agriculture zone and normally would require a conditional use permit. Kern County has indicated the zoning conditions of approval that it would otherwise impose if it were the permitting agency. These conditions are included under **CONDITIONS OF CERTIFICATION LAND USE-1**. The Pastoria Energy Facility's linear components are permitted uses under the Kern County General Plan and applicable Zoning Ordinances.

NOISE

Comments on the Pastoria PMPD

1. Page 265 (second paragraph): The ambient noise level at the nearest sensitive receptors along Laval Road was ~~40~~ 41 dBA leq. (Ibid.) |
2. Page 266 (top of page): reach approximately 36 dBA compared with the ambient noise level of ~~40~~ 41 dBA Leq at that location. |
2. Page 267 (first paragraph): which is below the average ambient noise level of ~~40~~ 39 dBA and well below the maximum allowable noise level of 45 dBA. (Ex.....) |

SOCIOECONOMICS
Comments on the Pastoria PMPD

1. Page 279 (SOCIO-2): The staff is recommending that this condition be eliminated.

Rationale:

Staff testimony did not include SOCIO-2 because such a condition may result in greater firm and regulatory costs in the form of increased Applicant search costs and increased State and Applicant monitoring costs. In addition, this condition is not consistently included in all Kern County permitting cases. A voluntary third party agreement to hire Kern County labor is acceptable especially if it provides economic benefits to the Applicant such as higher quality and greater productivity.

TRANSMISSION SYSTEM ENGINEERING
Comments on the Pastoria PMPD

1. Page 83 (second paragraph): Staff does **not** expect any cumulative impacts resulting from other proposed power plants operating in southern California **and PEF**.
2. Page 85 (TSE-1)
 - a. The power plant switchyard, outlet line and termination shall meet or exceed the electrical Title 8, CCR, Articles 35, ~~37~~ **36** and 37 of related Industry Standards.
3. Page 86 (TSE-1 Verification:)
 - b. For each element of the transmission facilities Title 8, CCR, Articles 35, ~~37~~ **36** and 37 of the Related Industry Standards.

VISUAL RESOURCES

Comments on the Pastoria PMPD

p.256, first full paragraph, replace second sentence with:

“Although industrial plumes are not part of the existing viewshed in this rural area, the plumes, because of their low opacity, would cause moderate rather than high contrast, and the upper portions would be difficult to see, so the plumes would appear subordinate to the landscape.”

p.257, Finding and Conclusion 2, replace with:

“The nearest sensitive viewing areas are along Interstate 5 (I-5) more than five miles west of the project, Laval Road from 2.6 to four miles northwest of the project, and Edmonston Pump Plant Road (with restricted public access) about one mile south of the project.”

p.261, Condition of Certification VIS-3:

Insert before the Verification section:

“Prior to the start of construction, the project owner shall establish a telephone number for use by the public to report any lighting complaint associated with the construction or operation of the project. This telephone number shall be posted at the project site in a manner visible to passersby. This telephone number shall be maintained until the project has been operational for at least one year.”

Insert as the first Verification item:

“At least 15 days prior to the start of construction, the project owner shall notify the CPM that the telephone number has been established.”

Insert as the last Verification item:

“In the Monthly Compliance Report during construction and within 7 days after the filing of a lighting complaint during operation, the project owner shall notify the CPM in writing of the complaint, the response by the project owner, and the final resolution of the complaint.”