

Memorandum

Date : November 9, 2001

To : Steve Larson, Executive Director

From : **California Energy Commission** - Bob Therkelsen, Deputy Director
1516 Ninth Street
Sacramento, CA 95814-5512
Systems Assessment & Facilities Siting

Subject : **ITEM FOR THE NOVEMBER 19, 2001 BUSINESS MEETING:
PETITION TO AMEND THE CALPINE GILROY PROJECT (01-EP-08) TO
CONSTRUCT A 1.7-MILE NATURAL GAS PIPELINE**

COMMISSION ACTION REQUESTED

On September 13, 2001 Calpine Corporation (Calpine) filed a petition to amend the Energy Commission Decision for the Gilroy Project located in the City of Gilroy. Calpine proposes to construct a 1.7-mile natural gas pipeline upstream of the project site for system reliability.

Staff requests that the Commission approve the amendment petition and modify Condition of Certification Cultural-2, and add two new Cultural Conditions (Cultural-4 and Cultural-5), as specified on page 3 and 4 of this issue memo.

PROJECT HISTORY

The Calpine Gilroy Project is a 135 MW emergency simple cycle, natural gas-fired power plant, located in the City of Gilroy. The project was certified by the Commission on May 15, 2001. On October 31, 2001 the Commission extended the on-line date of the project from September 30 to December 14, 2001. The Gilroy Project is comprised of three 45 MW gas turbine generators. Construction activities are essentially complete and the facility is expected to be operational by December 14, 2001.

PROPOSED AMENDMENT

Calpine is requesting that the Commission approve construction of a natural gas pipeline upstream of the project site. Calpine proposes to install 1.7 miles of 16-inch natural gas pipeline along the existing right-of-way of Frazier Lake Road and Highway 152.

Calpine requires the natural gas pipeline to upgrade the existing Pacific Gas and Electric (PG&E) gas supply system and enhance gas system reliability for the Gilroy Project and existing Calpine Cogeneration plant at the same site during periods of peak natural gas use. The gas pipeline would also provide the complete gas requirements for the proposed Gilroy Phase 2 Project, which is currently under review by the Commission.

STAFF ANALYSIS

Calpine anticipated that construction of the pipeline would occur during development of the proposed Gilroy Phase 2 Project. However, as a result of delays in permitting the Phase 2 Project, and uncertainty of project schedules, Calpine has requested the pipeline be included as part of the Gilroy Project (Phase 1) to maintain system reliability. Calpine has determined the need for the proposed pipeline regardless of development of the Phase 2 project.

Based on information provided by Calpine, and as verified by staff, the construction of the gas pipeline is required to ensure a consistent and reliable source of natural gas during periods of peak demand. Staff contacted representatives from PG&E who verified that during periods of peak demand the gas pipeline would minimize the potential for natural gas curtailments.

The amendment petition was reviewed by staff to determine if there is any possibility the modifications may have a significant effect on the environment, or that the changes would cause the project not to comply with any applicable laws, ordinances, regulations, or standards. Staff has determined that the only technical area that may be adversely affected by the proposed amendment is cultural resources.

The gas line route is sensitive for archaeological resources according to the California Historical Research Information System (CHRIS 2001). Along the proposed 1.7-mile gas line route, excavation for a previous gas line discovered five Native American burials within the boundaries of CA-SCL-714/H. The likelihood of exposing burials along the proposed route during ground disturbance is very high.

According to a preliminary treatment plan prepared and submitted by Calpine as supplemental information to the amendment petition to mitigate impacts to the burial site, CA-SCL-714/H meets the criteria for listing on the California Register of Historical Resources under criterion 4. Staff concurs with this assessment of the site. The site may also contribute to important research questions regarding subsistence and, if examination of bones is allowed, it may contribute to important research questions regarding health and lifeways of indigenous people. The treatment plan also asserts that this burial site is scientifically important because it dates to the late prehistoric or very early historic period. The site

contained glass beads that indicate that this burial site dates to a period of initial Spanish contact. Sites that correspond with early Spanish contact are rare.

As ground disturbance for the proposed pipeline occurs, it is highly likely that more burials will be discovered. Impacts to site CA-SCL-714/H will also be considered significant if additional burials or artifacts are discovered. Staff's proposed condition of certification (Cultural-4) requires a treatment plan to reduce the impacts to less than significant. The treatment plan will examine potential routes to avoid burials, if discovered. It will also provide options and guidelines, contingent on the approval of the Most Likely Descendent (MLD), to appropriately rebury any Native American remains that are discovered.

Due to the high likelihood of encountering Native American burials, avoidance of cultural and archeological resources is the recommended method to mitigate impacts to less than significant levels. Based on these conclusions, staff recommends approving the amendment request with a modification to Condition of Certification Cultural-2 and the addition of Cultural-4 and Cultural-5.

The proposed modified Condition of Certification Cultural 2 is as follows (added language is shown as underlined, the verification will not change):

Cul-2 The project has been determined to have the potential to adversely affect significant cultural resources and the project owner shall ensure the completion of the following action/activities:

1. Provide a cultural specialist who will have access to the site and linear rights-of way at any time prior to and during ground disturbance.
2. The cultural specialist will provide training to appropriate construction personnel at the site, will install avoidance measures (as necessary), and will be present during appropriate ground disturbing activities. The cultural specialist has the authority to halt construction at a location if a cultural resource is found or if a previously identified resource is affected in an unanticipated manner. If resources are discovered and the cultural specialist is not present, the project owner will halt construction at that location and will contact the specialist immediately. The cultural specialist will consult with the CPM and a decision will be made by the CPM within 24-hours as to how to proceed.
3. The project owner shall allow time for the cultural specialist to recover significant resource finds, and pay all fees necessary to curate recovered significant resources.
4. The Cultural Resource Monitor(s) shall keep a log of daily monitoring activities and the daily logs shall be available for audit by the CPM.

The proposed addition of Conditions and Verifications of Certification for Cultural-4 and Cultural-5 are as follows (new language is shown as underlined):

Cul-4 Prior to ground disturbance for excavation of the proposed gas line, the project owner shall ensure that the cultural resource specialist (CRS) prepares a treatment plan including a focused research design and testing plan. The treatment plan shall provide recommendations for avoidance. In the event avoidance is not possible, the plan shall provide recommendations for mitigation of impacts to Native American burials, should they be discovered. The test trench and all ground disturbing activities shall be monitored, full time, by the CRS or the Cultural Resource Monitor(s) and Native American monitor(s).

Verification: At least 10 days prior to ground disturbance, or as agreed by the CPM, the project owner shall provide a treatment plan including a focused research design to the CPM for review and written approval.

CUL-5 The CRS shall provide a Cultural Resource Report (CRR) to the CPM, which shall be prepared according to Archaeological Resource Management Report (ARMR) Guidelines. The CRR shall include all cultural resource information obtained as a result of this project. All survey reports, monitoring records, DPR form 523 and maps (may include photos) of updated resources or discovered resources, and additional research reports not previously submitted to the CHRIS shall be included as an appendix to the CRR. If documents have previously been submitted to the CHRIS, transmittal letters from the CHRIS acknowledging receipt of the documents shall be included as an appendix to the report. If archeological materials are collected and analyzed other than human remains or grave related goods, the name of the curation institution (meets "Guidelines for the Curation of Archaeological Collections" approved by the State Historical Resources Commission), contact person and phone number will be included in the CRR. This report shall be submitted after ground disturbance activities are completed. This report shall be considered final upon approval by the CPM.

Verification: The CRR shall be submitted to the CPM within 90 days after completion of ground disturbance for review and approval. Within 10 days after CPM approval, the project owner shall provide copies of the CRR to the curating institution (if archaeological materials were collected), the State Historic Preservation Officer (SHPO) and the CHRIS.

PUBLIC REVIEW

The amendment petition has been docketed and this Issue Memo will be posted on the Commission's web page, e-mailed to the emergency peaker e-mail list, and mailed to parties on the normal mailing list on November 9, 2001.

STAFF FINDINGS

Staff finds that the proposed amendment meets the requirements of Title 20, section 1769(a)(3) of the California Code of Regulations, as follows:

- A. There will be no new or additional unmitigated significant environmental impacts associated with the proposed changes.
- B. The facility will remain in compliance with all applicable laws, ordinances, regulations, and standards, subject to the provisions of Public Resources code section 25525.
- C. The change will be beneficial to the applicant and the public. In this case, the amendment will be of benefit to the project owner and the public by providing a reliable gas supply during periods of peak electricity and gas use.
- D. The amendment to construct the gas pipeline is based on information not available to Calpine prior to the Commission Decision because Calpine was expecting that development of the Phase 2 project would occur in time to provide for the needed reliability for the Gilroy Project (Phase 1).

COMPLIANCE PROGRAM STAFF

Compliance Program Manager: Chuck Najarian (916) 654-4079
Compliance Project Manager: Christian Huntley (916) 651-8865
Compliance Staff Attorney: Dan Rios (916) 654-4253

BUSINESS MEETING PARTICIPANTS

Chuck Najarian, Dan Rios, and Christian Huntley