



SMUD

SACRAMENTO MUNICIPAL UTILITY DISTRICT □ P. O. Box 15830, Sacramento CA 95852-1830, (916) 452-3211
AN ELECTRIC SYSTEM SERVING THE HEART OF CALIFORNIA

January 10, 2003

LEG 2003-0025

The Honorable Robert Pernell
The Honorable Arthur Rosenfeld
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Cosumnes Power Plant (01-AFC-19) -- SMUD Status Report #5 and Comments for Status Conference on January 13, 2003

Dear Commissioners:

On behalf of the Sacramento Municipal Utility District (SMUD), I want to thank Presiding Member Pernell for scheduling the Status Conference on Monday, January 13, 2003, and for giving SMUD and the other parties this opportunity (1) to update the Committee on the status of this important project, including the federal agencies' biological resources review, (2) to establish a date certain for the filing of the Final Staff Assessment (FSA) (without the biological resources section), and (3) to request dates certain for the prehearing conference and the evidentiary hearings.

As detailed in the enclosed Status Report, the licensing process has reached a critical stage for SMUD and its customer-owners. Every day counts toward the goal of producing energy and supplying critical voltage support for the SMUD service area and Northern California by Summer 2005. To minimize impacts to biological resources, the pipeline must be constructed during the narrow window of two summer seasons. If SMUD misses the upcoming summer season, it is likely SMUD will miss the on-line target of Summer 2005.

Consequently, it is critical that SMUD obtain all necessary permits to start construction of the power plant and related natural gas pipeline, in particular, the CEC's approval of the AFC, by the first week of June 2003. As a result, we are requesting the CEC staff's and the Committee's assistance in taking all reasonable steps to expedite the remainder of the AFC process. CEC staff has indicated that it can assist by issuing the FSA without the biological resources section no later than the first week of February.

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In summary, SMUD requests that the Committee issue an order establishing a schedule that incorporates the FSA deadline proposed by the CEC staff and SMUD, as well as the following dates for the prehearing conference and evidentiary hearings:

FSA without Biology section filed	Week of 2/3/03
Prehearing Conference	Week of 2/10/03 or 2/17/03
Evidentiary Hearings (except Biology)	Week of 3/3/03
Biology hearing	March 2003
Presiding Member's Proposed Decision (PMPD)	Week of 4/7/03
Public comments due on PMPD	5/12/03
Revised PMPD filed	5/19/03
Business Meeting to Consider Final Decision	6/4/03

Meanwhile, SMUD is actively working with the U.S. Army Corps of Engineers (ACOE) and the U.S. Fish and Wildlife Service (USFWS) to expedite their review of documents submitted by SMUD over the last few weeks and months. SMUD's proposed schedule should allow the Committee time to prepare the PMPD during the month of March, adding a biology section immediately after the hearing on biology is completed. Our detailed schedule for completion of the licensing process is provided as Attachment B to the Status Report.

Thank you for your assistance in this matter.

Sincerely,



Steve Cohn
Assistant General Counsel

cc: Service List for CEC Docket No. 01-AFC-19

APPLICANT'S STATUS REPORT 5
SMUD COSUMNES POWER PLANT PROJECT (CEC DOCKET NO. 01-AFC-19)

PROJECT STATUS

This status report was prepared for the Committee to address the completeness and timeliness of SMUD's comprehensive submissions to the CEC and a number of federal agencies. As requested, this status report offers suggestions for moving forward with a schedule that allows the CEC and SMUD to keep the project on track to start operation in 2005. SMUD's last status report was provided November 15, 2002. Since then, SMUD has delivered eight data response sets to address formal and informal requests, in addition to submittals to the federal agencies.

Only biological resources items remain, as discussed below, and SMUD's submittals for the overwhelming majority of the other environmental areas have been completed for several months. As evidenced by the activity in biology, SMUD is determined to resolve all outstanding issues in the near future. SMUD and its customer-owners request the Committee's assistance in achieving a speedy resolution of these permitting issues.

BIOLOGICAL RESOURCES

SMUD agrees with the CEC staff that the Biology Section of the FSA should be issued as soon as the U.S. Army Corps of Engineers (ACOE) is satisfied with the wetland delineation, the U.S. Fish and Wildlife Service (USFWS) has accepted a mitigation plan for impacts to endangered species, and the National Marine Fisheries Service (NMFS) is satisfied either that no mitigation is necessary or that a mitigation plan is acceptable.

SMUD is currently working with the three federal agencies in parallel. The project needs a Clean Water Act Section 404 permit from ACOE. The issuance of the Section 404 permit requires that the ACOE consult with the USFWS and NMFS to determine the project effects on federally listed species, in compliance with the Endangered Species Act. The first step in initiating the consultation is to provide a wetland delineation to ACOE. Once the ACOE accepts the wetland delineation, it forwards a project Biological Assessment prepared by the Applicant to USFWS and/or NMFS for consultation.

In this instance, SMUD has proceeded with all agencies in parallel. SMUD has informally filed its Biological Resources Assessment (BRA) with the USFWS and NMFS, even though the ACOE has yet to initiate formal consultation with the agencies. The purpose of creating a BRA is to allow USFWS to comment on the proposed mitigation, thereby expediting the agencies' review of the document once formal consultation is initiated. In addition, the discussions with ACOE, USFWS, and NMFS thus far have resulted in two revisions to the BRA, wetland delineations, and supplemental information to the wetland delineations to accommodate the agencies' requests. SMUD has also realigned a portion of the gas pipeline in response to a request of CEC Staff and USFWS. By proceeding on these parallel paths and responding early to requests of the agencies, the overall time to complete all necessary actions with the federal

agencies should be reduced. The BRA will simply be retitled "Biological Assessment" upon initiation of consultation by ACOE.

Beyond the usual conceptual design submissions, SMUD has also been pleased to share (and has readily submitted), additional detailed design information for the site and laydown area stormwater drainage and hydrology as it has become available. Workshop discussions and informal dialogue with the ACOE and CEC Staff have influenced laydown area and hydrological design, resulting in several adjustments to reduce impacts to biological resources, as noted in the CEC Staff Status Report #4. In some cases, the level of detail sought is not available because SMUD is not able to speculate on post-license/pre-construction permit conditions that might refine the designs necessary to meet those permit conditions. SMUD proposes that the CEC implement a condition (as it has on previous projects) requiring the applicant to comply with the conditions of the 404 and 401 permits, as well as stormwater permits issued by federal agencies. This will allow staff to complete the FSA confident that environmental impacts, if any would be mitigated.

A partial listing of contacts and major submittals to the federal agencies relating to biological resources are provided in Attachment A. Additional correspondence through phone and e-mail has also taken place to facilitate discussion and review of submitted documentation. A complete list of data responses and material docketed with the California Energy Commission is listed in Attachment B.

NOISE

SMUD has completed an agreement with the nearest landowner to relocate a trailer to eliminate potential noise impacts at the nearest receptor. This agreement was signed December 27, 2002, and was docketed on January 8, 2003 as Data Response, Set 3N.

WATER & SOIL RESOURCES

SMUD received staff and public comments for the proposed stormwater grading and drainage plan for the site and laydown area. SMUD took staff comments and workshop ideas under advisement and engineered a stormwater drainage plan that minimizes temporary and permanent impacts to wetland areas. The plan includes drawings and narrative that fully addresses laydown area preparation, best management practices, resource avoidance, laydown area restoration, and planned operation of the stormwater system. SMUD submitted the resulting Informal Data Response Set 13 on January 2, 2003.

SCHEDULE

The licensing process has reached a critical stage for SMUD and its customer-owners. Every day counts toward the goal of producing energy and supplying critical voltage support for the SMUD service area and northern California by summer 2005. To minimize impacts to

biological resources, the pipeline must be constructed during the narrow window of two summer seasons. If SMUD misses the upcoming summer season, it is likely SMUD will miss the on-line target of summer 2005.

Consequently, SMUD requests bifurcating the FSA and proceeding to evidentiary hearings with all areas but biology, until CEC Staff receives the information requested from the federal agencies. At that time, the Biology Section could be completed. SMUD is actively working with the ACOE and USFWS to expedite review of submitted documents. SMUD requests a bifurcated hearing schedule including a prehearing conference date and evidentiary hearing dates for all subjects but biology. This way the Committee has additional time to prepare the PMPD and will only need to add biology upon completion of that subject area. Our proposed schedule for completion of the licensing process is provided in Attachment B.

SMUD also requests assistance from the Committee to call upon ACOE and potentially USFWS to request that the highest priority be placed upon this project. SMUD appreciates any support the Committee may be willing to provide in this area.

ATTACHMENT A
LIST OF FEDERAL AGENCY CONTACTS AND SUBMITTALS FOR BIOLOGY

- March 7, 2001 SMUD held pre-consultation meeting with USFWS
- June 5, 2001 SMUD sent letter to ACOE requesting clarifications on permitting process
- July 5, 2001 SMUD received letter from ACOE outlining permitting process
- February 7, 2002 SMUD held pre-consultation meeting with ACOE
- May 15, 2002 SMUD delivers pipeline wetland delineations to ACOE
- June 3, 2002 SMUD delivers electronic ARCVIEW files to ACOE
- June 10, 2002 SMUD delivers Biological Resources Assessment (BRA) to ACOE
- July 19, 2002 SMUD receives draft 1601 SAA permit for three crossings
- August 5, 2002 SMUD receives e-mail guidance from CDFG for 2081 Incidental Take Permit, indicating CDFG is responsible for finalizing permit from template information
- August 7, 2002 SMUD delivers project site wetland delineations to ACOE
- August 15, 2002 SMUD met with ACOE to discuss wetland delineations
- August 17, 2002 SMUD delivers revised BRA to ACOE
- September 10, 2002 SMUD receives comment letter from NMFS on revised BRA
- September 12, 2002 SMUD receives comments from USFWS on submitted material
- September 19, 2002 SMUD met with USFWS to discuss giant garter snake and vernal pool fairy shrimp habitat, and agrees to realign pipeline segment to avoid Stone Lakes Preserve
- October 12, 2002 SMUD receives draft 1601 SAA for additional 34 streambed crossings
- October 15, 2002 SMUD met with USFWS to discuss giant garter snake habitat
- October 25, 2002 SMUD delivers wetland delineations to ACOE for realigned pipeline and laydown area to accommodate USFWS pre-consultation opinion
- October 28, 2002 SMUD receives correspondence between USFWS and ACOE approving of alternative pipeline route, with concerns regarding giant garter snake habitat mapping, and discussion of habitat mitigation ratios
- November 6, 2002 SMUD meets with USFWS in field to review habitat
- November 13, 2002 SMUD delivers additional information to ACOE addressing ACOE guidance memorandum dated March 7, 2000, as requested by ACOE to initiate consultation with USFWS under Section 7 of the Endangered Species Act
- November 14, 2002 SMUD meets with NMFS to determine final facts required to complete informal consultation

- November 15, 2002 SMUD meets with ACOE at plant site to review wetland delineations
- November 18, 2002 SMUD receives e-mail from USFWS indicating no further technical assistance/pre-consultation will be provided for giant garter snake habitat questions
- November 27, 2002 SMUD delivers revised biological resource assessment to ACOE, USFWS, NMFS and CDFG
- December 2, 2002 SMUD delivers form 4345, 404 permit application to ACOE
- December 12, 2002 SMUD receives December 10 letter from ACOE outlining deficiencies in previous submittals
- December 13, 2002 SMUD receives counter-signed 1601 SAA permit from CDFG, indicating exempt status from further CEQA proceedings
- December 19, 2002 SMUD meets with ACOE to discuss December 10, 2002 letter, and requests field visit to address content of letter
- December 23, 2002 SMUD delivers letter to ACOE indicating intent to deliver material requested in ACOE December 10 letter on January 8, 2003, and desire of SMUD to verify information immediately afterward and prior to CEC Status Hearing January 13, 2003
- December 23, 2002 SMUD delivers technical memorandum to ACOE, previewing the method of response to ACOE December 10, 2002 letter
- December 23, 2002 SMUD delivers letter to ACOE responding to the additional request for Section 10 Rivers and Harbors Act permit
- December 26, 2002 SMUD executive management contacts ACOE to discuss priority
- December 31, 2002 SMUD contacts CDFG for 2081 permit progress and receives 2081 permit application number, permit application is in form of BRA and cover letter, delivered as shown above
- January 3, 2003 SMUD consultant requests field visit with ACOE for January 9, 2003
- January 6, 2003 SMUD consultant requests field visit with ACOE for January 9, 2003
- January 8, 2003 (as agreed) SMUD delivers to ACOE additional wetlands delineation information to address its December 10, 2002 letter

ATTACHMENT B
SMUD'S PROPOSED SCHEDULE

Item	Activity	Day	Calendar Day	Done
	SMUD files Application for Certification (AFC)	-62	9/13/01	✓
	Exec. Director's data adequacy recommendation	-5	11/9/01	✓
	Comm. Data Adequacy Decision at Bus. Meeting	0	11/14/01	✓
	CEC Staff files Data Requests (round 1)	26	12/10/01	✓
	CEC Staff files Issues Identification Report	28	12/12/01	✓
	CEC Informational Hearing & Site Visit	35	12/19/01	✓
	CEC Staff files Data Request (round 2)	51	1/4/02	✓
	SMUD files Data Response Set 1A	56	1/9/02	✓
	SMUD files Data Response Set 1B	65	1/18/02	✓
	CEC Data Response and Issue Resolution Workshop (round 1)	70	1/23-24/02	✓
	SMUD files revised System Impact Study	72	1/25/02	✓
	SMUD files Data Response Set 1C	82	2/4/02	✓
	SMUD files Data Response Set 2A	82	2/4/02	✓
	SMUD files Data Response Set 1D	93	2/15/02	✓
	SMUD files Data Response Set 2B	97	2/19/02	✓
	SMUD files Data Response Set 1E (Power Plant Cooling Analysis)	114	3/8/02	✓
	SMUD files Data Response Set 1F	117	3/11/02	✓
	SMUD files AFC Supplement A	121	3/15/02	✓
	SMUD files Data Response Set 1G	124	3/18/02	✓
	SMUD files Data Response Set 2C	124	3/18/02	✓
	SMUD files Data Response Set 1H	133	3/27/02	✓
	CEC Staff files Data Request (round 3)	142	4/5/02	✓
	CEC Staff files Status Report #1	147	4/10/02	✓
	CEC Staff files Data Requests (round 4)	147	4/10/02	✓
	SMUD files AFC Supplement B	152	4/15/02	✓
	SMUD files Data Response Set 3A	152	4/15/02	✓
	SMUD files Status Report #1	159	4/22/02	✓
	SMUD files Data Response Set 1I	173	5/6/02	✓
	SMUD files Data Response Set 2D	173	5/6/02	✓
	SMUD files Data Response Set 3B	173	5/6/02	✓
	SMUD files Data Response Set 4A	177	5/10/02	✓
	SMUD files Comments in Response to the Committee's Notice of Hearing on Project Status	177	5/10/02	✓
	CEC Committee Hearing on Project Status	181	5/14/02	✓
	CEC Workshop on Waste Management	182	5/15/02	✓
	SMUD files Data Response Set 1J	187	5/20/02	✓
	SMUD files Data Response Set 3C	187	5/20/02	✓
	SMUD files Data Response Set 3D	205	6/07/02	✓

Item	Activity	Day	Calendar Day	Done
	SMUD files Data Response Set 1K	205	06/07/02	✓
	SMUD files Informal Data Response Set 2	228	6/30/02	✓
	SMUD files Response to Peasha Set 1	228	6/30/02	✓
	SMUD files Data Response Set 3E	229	7/1/02	✓
	CEC Staff files Status Report #2	237	7/9/02	✓
	SMUD files Status Report #3	238	7/10/02	✓
	SMUD files AFC Supplement C	238	7/10/02	✓
	SMUD files Data Response Set 1L	244	07/16/02	✓
	SMUD files Informal Data Response Set 3	246	7/18/02	✓
	SMUD files Data Response Set 1M	246	7/18/02	✓
	SMUD files Response to Peasha Set 2	254	7/26/02	✓
	CEC files Preliminary Staff Assessment (PSA), Part 1	264	8/7/02	✓
	SMUD files Data Response Set 3G	276	8/17/02	✓
	Sacramento AQMD Approval of Interdistrict ERC Transfer	281	8/22/02	✓
	Prelim. Air DOC issued	287	8/27/02	✓
	SMUD files Data Response Set 3H	289	8/29/02	✓
	SMUD files Informal Data Response Set 4	291	9/1/02	✓
	Preliminary Staff Assessment Workshops	296	Aug. & Sept. 2002	✓
	SMUD PSA Comments Set 1	296	9/6/02	✓
	CEC files PSA Part 2 (Water and Visual)	301	9/11/02	✓
	SMUD PSA Comments Set 2	303	9/13/02	✓
	SMUD files Data Response Set 3I and Informal Data Set 5	307	9/17/02	✓
	Sacramento County Board of Supervisors Hearing Approving Plant as consistent with General Plan, etc.	315	9/25/02	✓
	SMUD files Data Response Set 4B	315	9/25/02	✓
	Preliminary Determination of Compliance (PDOC)	317	9/27/02	✓
	SMUD PSA Comments Set 3 (Revised)	329	10/09/02	✓
	SMUD files Data Response Set 1O	324	10/04/02	✓
	SMUD PSA Comments Set 4	335	10/15/02	✓
	Final Determination of Compliance (FDOC) issued	341	10/21/02	✓
	SMUD files Data Response Set 3J	348	10/28/02	✓
	SMUD files Informal Data Response Set 6	348	10/28/02	✓
	SMUD files Informal Data Response Set 7	349	10/29/02	✓
	SMUD files AFC Supplement D	352	11/01/02	✓
	SMUD files Informal Data Response Set 8	355	11/04/02	✓
	SMUD files Data Response Set 3K	357	11/06/02	✓
	SMUD files Informal Data Response Set 9	366	11/15/02	✓
	SMUD files Informal Data Response Set 10	373	11/22/02	✓
	SMUD files Informal Data Response Set 11	378	11/27/02	✓
	SMUD files Informal Data Response Set 12	385	12/04/02	✓
	SMUD files Informal Data Response Set 13	414	01/02/03	✓

Item	Activity	Day	Calendar Day	Done
	SMUD files Data Response Set 3M	414	01/2/03	✓
	SMUD files Data Response Set 3N	420	01/8/03	✓
	Final Staff Assessment (FSA) without Biology section filed		Week of 2/3/03	
	Prehearing Conference		Week of 2/10/03 or 2/17/03	
	Evidentiary Hearings (except Biology)		Week of 3/3/03	
	Biology hearing		March 2003	
	Presiding Member's Proposed Decision (PMPD)		Week of 4/7/03	
	Public comments due on PMPD	543	5/12/03	
	Revised PMPD filed	550	5/19/03	
	Business Meeting to Consider Final Decision	565	6/4/03	