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DOCKET
01-AFC-21C
DATE July 13 2009
RECD. July 13 2009

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	)	Docket No. 01-AFC-21C
	)	
TESLA POWER PROJECT;	)	REBUTTAL TESTIMONY
Request for Extension of License	)	
	)	
	)	

The San Joaquin Valley Air Pollution Control District (District) was accepted by the California Energy Commission (CEC) as an Intervenor in these proceedings on February 20, 2002, and offers the following Rebuttal Testimony. The District's concerns have solely been in the areas of Air Quality and Public Health, and our testimony will be limited to these areas.

On May 6, 2009, the District offered comments to the CEC (letter to Steve Munro, Project Manager, attached) that the Air Quality Mitigation Settlement Agreement (AQMA) between the Applicant and the District, and required by Condition AQ-C7 of the CEC Certification for this project, needs to be revisited.

Both the Staff and the Applicant, in their respective testimony, offer answers to Questions 3.g. and 3.k. of the Notice of Evidentiary Hearing and Committee Order. They appropriately discuss most of the items that would need to be amended should the Applicant proceed with construction, but neither testimony includes a discussion of the AQMA.

Since the project was originally licensed in 2004, not only have standards and rules changed (as detailed in Applicant and Staff's testimonies), but the District has gained a better understanding of how to mitigate emissions from projects that impact our Air Basin but are not subject to our permitting requirements. With these changes to standards and rules, the fact that PG&E did not acquire all of the Emission Reduction Credits that Midway Power, the original applicant, owned, and the District's better understanding of how to mitigate projects like

this, a condition requiring the application to renegotiate the AQMA before construction commences is necessary.

We note that CEC Order 08-0813-8 approving an extension of the deadline for commencement of construction for the East Altamont Energy Center, another project which entered into an AQMA with the District, requires them to renegotiate that AQMA as a condition of the extension. Such a condition should be imposed in this case also, should the CEC approve the extension.

The District will make available Jim Swaney, Permit Services Manager, as witness for these topics, should the need arise.

Respectfully submitted,

David Warner
Director of Permit Services

Dated: July 13, 2009

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

May 6, 2009

Mr. Steve Munro
Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814

Subject: CEC Docket No. 01-AFC-21, Tesla Power Plant
Comments on petition for ownership change and extension of license

Dear Mr. Munro:

The San Joaquin Valley Air Pollution Control District (District) has been notified of Pacific Gas & Electric's (PG&E's) petition to transfer the ownership of the Tesla Power Plant (TPP) and extend the start of construction date for the project by an additional five (5) years. As you are aware, TPP entered into an Air Quality Mitigation Settlement Agreement (AQMA) with the District, which is included in Condition AQ-C7 of the CEC certification of this project. The District offers the following comment on this petition:

As more than 5 years have passed without starting any construction, the AQMA needs to be revisited. Since the project was first certified, the District has gained a better understanding of how to mitigate emissions from projects that impact the San Joaquin Valley Air Basin, but that are not subject to District permitting requirements.

This is evidenced by the adoption of District Rule 9510 (Indirect Source Review) by the District's Board on December 15, 2005. This Rule includes a method of analyzing development projects not subject to District permitting, and includes a specific fee structure for any un-mitigated emissions reductions required from such sources. Additionally, our experience in achieving surplus emission reductions has grown over the past five years, with our Emissions Reduction Incentive Program granting less than $10 million dollars per year from Carl Moyer and DMV funds when the AQMA was signed, to currently granting over $100 million dollars per year through a number of different funding sources.

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Executive Director/Air Pollution Control Officer

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Additionally, if the project should change from that which was originally licensed, or if there have been any changes to the project's offsetting package, those changes should be analyzed to determine the amount of un-mitigated impacts.

We note that CEC Order 08-0813-8 approving an extension of the deadline for commencement of construction for the East Altamont Energy Center, another project which entered into an AQMA with the District, requires them to renegotiate that AQMA as a condition of the extension. We fully support that condition of approval and request to have a similar condition be imposed for this petition.

The District looks forward to working with PG&E to properly amend the AQMA to ensure that the citizens in the San Joaquin Valley Air Basin are not unfairly impacted by the location of this project.

If you have any further questions regarding this matter, please contact myself or Rupi Gill, Permit Services Manager, at (209) 557-6400, or Mr. Gill at rupi.gill@valleyair.org.

Sincerely,

David Warner
Director of Permit Services

DW:rg

cc: Supervisor Leroy Ornellas
San Joaquin County
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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
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APPLICATION FOR CERTIFICATION FOR THE *Tesla Power Project*

DOCKET NO. 01-AFC-21C

PROOF OF SERVICE

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DECLARATION OF SERVICE

I, Jim Swaney , declare that on July 13, 2009, I served and filed copies of the attached Rebuttal ,Testimony, dated July13, 2009. 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: **[www.energy.ca.gov/sitingcases/tesla]**.

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:

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FOR SERVICE TO ALL OTHER PARTIES:

X sent electronically to all email addresses on the Proof of Service list;

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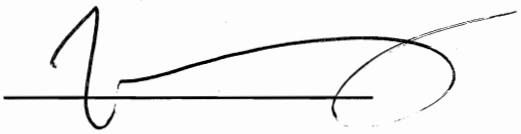
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

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