State Of California
California

The Resources Agency of

Memorandum

Date: April 2, 2008
Telephone: (916) 654-4679

To: Vice Chair James Boyd, Presiding Member
Chairman Jackalyne Pfannenstiel, Associate Member

From: California Energy Commission – John S. Kessler, Project Manager
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Victorville 2 Hybrid Power Project (07-AFC-1) – Additional Testimony of Energy Commission Staff

Enclosed please find additional testimony of Energy Commission staff for the Victorville 2 Hybrid Power Project (07-AFC-1). The testimony has been prepared in response to comments received from the applicant and the Committee. The topics of the additional testimony and supporting witnesses are as follows:

Air Quality: Tuan Ngo and Matthew Layton

Biological Resources: John Kessler

Hazardous Materials: John Kessler

Soil and Water Resources: John Kessler

Traffic and Transportation: John Kessler

DOCKET
07-AFC-1
DATE APR 0 2 2008
RECD. APR 0 2 2008

Proof of Service (Revised 9/6/07) filed with original.
Mailed from Sacramento on 4/2/08
C. Hong

AIR QUALITY – TESTIMONY OF TUAN NGO AND MATTHEW LAYTON

Victorville 2 Hybrid Power Project
Docket 07-AFC-1

April 2, 2008

Staff provides the following responses to the Applicant's March 28, 2008 Prehearing Conference statement regarding disputed areas in the Air Quality Final Staff Assessment for the Victorville 2 Hybrid Power Project (Victorville 2). Those disputed areas that have been resolved in Addendum 1 to the FSA are noted, while those Air Quality areas where staff and the applicant still disagree are discussed.

Item 1. FSA pages 4.1-11 to 4.1-12, regarding daily start and stop times for construction activities: Staff does not agree with the applicant's comment, but has provided the clarifying language in Addendum 1 to indicate that the recommended start and stop times for construction is a staff, not city, recommendation.

Item 2. FSA page 4.1-14 regarding ambient PM2.5 measurements: The applicant states the ambient air quality standards for PM2.5 in Victorville are not exceeded. After further review of the ambient PM2.5 measurements, including recent data from 2007 that was not available during the preparation of the FSA, staff agrees that the ambient PM2.5 levels in the Victorville area and near the project site do not exceed federal and state standards, and are level or trending downward. In addition, the project's contribution to ambient PM2.5 levels is not likely to cause an exceedence of these standards. Therefore, staff agrees that the project's PM2.5 emissions do not have a significant impact on PM2.5 air quality in Victorville and no additional PM2.5 mitigation is needed. Staff recommends the following changes to the FSA and Condition of Certification AQ-SC9:

a. Page 4.1-1 SUMMARY OF CONCLUSIONS, bullets 3 and 4 (top of page) be revised as:

- The project would not cause new violations of any nitrogen dioxide (NO_2), sulfur dioxide (SO_2), <u>particulate matter less than 2.5 microns (PM2.5)</u>, or carbon monoxide (CO) ambient air quality standards, and therefore, its emission impacts are not significant for those pollutants; and
- The project's particulate matter less than 10 ~~and 2.5~~ microns (PM10/~~PM2.5~~) emissions contribution would be mitigated to a level that

is less than significant by surrender of valid emission reduction credits generated by the paving of local roads.

b. Page 4.1-24 CONCLUSIONS: The last bullet (top of page) should be deleted.

c. Condition of Certification AQ-SC9 should be revised to read:

AQ-SC9 The project owner shall pave, with asphalt concrete that meets the current county road standards, unpaved local roads to provide emission reductions of 132.7 tons per year of ~~PM2.5~~PM10, prior to start construction of the project. Calculations of ~~PM2.5~~PM10 emission reduction credits shall be performed in accordance with Sections 13.2.1 and 13.2.2 of the U.S. EPA's AP-42 "Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources", Fifth Edition~~, and PM2.5 portion shall be calculated as being equal to ten (10) percent of the total PM10 road dust emission reduction credits~~.

Verification: At least ~~one year~~ 60 days prior to start construction, the project owner shall submit to the CPM and the District, for approval, a list and pictures of candidate roads to be paved, their actual daily average traffic count including classifications of vehicles (ADT), and daily vehicle miles travel (DVMT), their actual road dust silt content, and calculations showing the appropriate amount of emissions reductions due to paving of each road segment. All paving of roads shall be complete at least 15 days prior to start construction of the project.

Item 3. FSA Condition of Certification AQ-SC11 GHG Reporting: The Applicant asks for clarification whether the reporting requirements of AQ-SC11 apply only until The California Global Warming Solutions Act of 2006 is implemented. Staff agrees with this interpretation and points to the language of the condition that states "[u]ntil the California Global Warming Solutions Act of 2006 (AB32) is implemented..."

Item 4. Condition of Certification AQT-3, Verification: Staff agreed with the applicant's comment, and changed the verification in Addendum 1 to read as follows:

~~At least 90 days prior to construction of the project, the~~The project owner shall provide ~~the District, the ARB and~~ the CEC CPM copies of the federal PSD and Acid Rain permits no later than 30 days of their issuance.

Item 5. Condition of Certification AQT-13: Staff agreed with the applicant's comment and changed the verification in Addendum 1, and recommends the condition be revised to read:

AQT-13 The O.O. shall conduct all required compliance/certification tests in accordance with a District-approved test plan. Thirty (30) days prior to the compliance/certification tests the operator shall provide a written test plan for

District review and approval. Written notice of the compliance/certification test shall be provided to the District ten (10) days prior to the tests so that an observer may be present. A written report with the results of such compliance/certification tests shall be submitted to the District within ~~forty-five (45)~~sixty (60) days after testing.".

Item 6. Verifications of Conditions of Certification AQT-9, AQT-11, AQT-16, AQEG-5, AQEG-7, AQFP-5 and AQFP-7: Staff agreed with the applicant's comment, and changed the verification references from 120 days to 60 days in Addendum 1.

Item 7. Condition of Certification AQ-SC3 (j): Staff agreed with the applicant's comment and changed AQ-SC3 (j) in Addendum 1 as follows "At least ...(or less during periods of precipitation or on other days with the concurrence of the CPM) on days ..."

Item 8. Condition of Certification AQ-SC4, Step 3: Staff agreed with the applicant's comment and changed AQ-SC4, Step 4 in Addendum 1 as follows:

" Step 3: The AQCMM or Delegate shall direct a temporary shutdown of the activity causing the emissions if step 2, specified above, fails to ~~result in effective mitigation~~ eliminate visible dust plume at any location 200 feet or more off the project construction fence line within one hour of the original determination. The activity shall not restart until the AQCMM or Delegate is satisfied that appropriate additional mitigation or other site conditions have changed so that visual dust plumes will not result upon restarting the shutdown source. The owner/operator may appeal to the ~~District~~ CPM any directive from the AQCMM or Delegate to shut down an activity, provided that the shutdown shall go into effect within one hour of the original determination, unless overruled by the ~~District~~ CPM before that time."

BIOLOGICAL RESOURCES – TESTIMONY OF JOHN KESSLER

Victorville 2 Hybrid Power Project
Docket 07-AFC-1

April 2, 2008

Conditions of Certification

Designated Biologist Selection

BIO-1 The project owner shall assign a Designated Biologist to the project. The project owner shall submit the resume of the proposed Designated Biologist, with at least three references and contact information, to the Energy Commission Compliance Project Manager (CPM) for approval in consultation with CDFG and USFWS.

The Designated Biologist must meet the following minimum qualifications:

- Bachelor's Degree in biological sciences, zoology, botany, ecology, or a closely related field; and
- Three years of experience in field biology or current certification of a nationally recognized biological society, such as The Ecological Society of America or The Wildlife Society; and
- At least one year of field experience with biological resources found in or near the project area.

In lieu of the above requirements, the resume shall demonstrate to the satisfaction of the CPM, in consultation with CDFG and USFWS, that the proposed Designated Biologist or alternate has the appropriate training and background to effectively implement the conditions of certification.

Verification: The project owner shall submit the specified information at least ~~90~~60 days prior to the start of any site (or related facilities) mobilization. No site or related facility activities shall commence until an approved Designated Biologist is available to be on site.

If a Designated Biologist needs to be replaced, the specified information of the proposed replacement must be submitted to the CPM at least ten working days prior to the termination or release of the preceding Designated Biologist. In an emergency, the project owner shall immediately notify the CPM to discuss the

qualifications and approval of a short-term replacement while a permanent Designated Biologist is proposed to the CPM for consideration.

Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP)

BIO-6 The project owner shall develop a BRMIMP and submit two copies of the proposed BRMIMP to the CPM (for review and approval) and shall implement the measures identified in the approved BRMIMP. The BRMIMP shall be prepared in consultation with the Designated Biologist and shall identify:

1. All biological resources mitigation, monitoring, and compliance measures proposed and agreed to by the project owner;

2. All biological resources conditions of certification identified as necessary to avoid or mitigate impacts;

3. All biological resource mitigation, monitoring and compliance measures required in federal agency terms and conditions, such as those provided in the USFWS Biological Opinion;

4. All biological resources mitigation, monitoring and compliance measures required in other state agency terms and conditions, such as those provided in the USFWS Biological Opinion and RWQCB permit (if needed);

5. All sensitive biological resources to be impacted (e.g., burrowing owl, desert tortoise, Mohave ground squirrel, Joshua trees, and cacti), avoided (e.g., southwestern pond turtle, San Diego coast horned lizard, Mojave River vole, San Emigdio blue butterfly), or mitigated by project construction, operation, and closure;

6. All required mitigation measures for each sensitive biological resource;

7. A raven control plan;

8. A final desert tortoise translocation plan and written comments on the plan as proof that it is acceptable to CDFG and USFWS. The elements of the plan shall include, but are not limited to, survey methods for locating and removing animals from the project area, holding and transport protocol, monitoring of translocation tortoises through permanent identification of animals, disease testing and management strategy, and a contingency plan;

9. A copy of the Burrowing Owl Mitigation and Monitoring Plan submitted to CDFG;

10. A Rare Plant Survey Report and if rare plants are found, a rare plant mitigation plan;

11. A wetland mitigation plan for temporary and permanent impacts to state and federal jurisdictional waters. This component is only needed if project changes affecting jurisdictional waters occur after project licensing;

12. A detailed description of measures that shall be taken to avoid or mitigate temporary disturbances from construction activities (e.g., restoration of desert saltbush scrub habitat for San Emigdio blue butterfly);

13. All locations on a map, at an approved scale, of sensitive biological resource areas subject to disturbance and areas requiring temporary protection and avoidance during construction;

14. Aerial photographs, at an approved scale, of all areas to be disturbed during project construction activities; include one set prior to any site or related facilities mobilization disturbance and one set subsequent to completion of project construction. Provide planned timing of aerial photography and a description of why times were chosen. Provide a final accounting of the before/after acreages and a determination of whether additional habitat compensation is necessary in the Construction Termination Report;

15. Duration for each type of monitoring and a description of monitoring methodologies and frequency;

16. Performance standards to be used to help decide if/when proposed mitigation is or is not successful;

17. All performance standards and remedial measures to be implemented if performance standards are not met;

18. A discussion of biological resources-related facility closure measures including a description of funding mechanism(s);

19. Restoration and re-vegetation plan that addresses protection, compensation, or salvage methods for Joshua trees, cacti, and creosote rings;

20. A process for proposing plan modifications to the CPM and appropriate agencies for review and approval; and

21. Copies of all biological resources-related permits obtained.

Verification: The project owner shall submit the BRMIMP to the CPM at least ~~60~~45 days prior to start of any site (or related facilities) mobilization. The BRMIMP shall contain all of the required measures included in Conditions of Certification **BIO-6, BIO-8, BIO-9, BIO-10, BIO-12, BIO-13, BIO-15, BIO-17** and **BIO-18**. No ground disturbance may occur prior to the CPM's approval of the final BRMIMP.

The CPM, in consultation with other appropriate agencies, will determine the BRMIMP's acceptability within ~~45~~30 days of receipt. If there are any permits that have not yet been received when the BRMIMP is first submitted, these permits shall be submitted to the CPM within five days of their receipt, and the BRMIMP shall be revised or supplemented to reflect the permit condition within ten days of their receipt by the project owner. Ten days prior to site and related facilities mobilization the revised BRMIMP shall be resubmitted to the CPM.

The project owner shall notify the CPM no less than five working days before implementing any modifications to the approved BRMIMP to obtain CPM approval.

Any changes to the approved BRMIMP must also be approved by the CPM in consultation with appropriate agencies to ensure no conflicts exist.

Implementation of BRMIMP measures (e.g., rare plant and burrowing owl survey results, construction activities that were monitored, species observed) will be reported in the Monthly Compliance Reports by the Designated Biologist. Within 30 days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction termination report identifying which items of the BRMIMP have been completed, a summary of all modifications to mitigation measures made during the project's site mobilization, ground disturbance, grading, and construction phases, and which mitigation and monitoring items are still outstanding.

HAZARDOUS MATERIALS – TESTIMONY OF JOHN KESSLER

Victorville 2 Hybrid Power Project
Docket 07-AFC-1

April 2, 2008

Conditions of Certification

HAZ-9 (No change to condition)

Verification: At least 30 days prior to the initial receipt of hazardous materials on-site, the project owner shall notify the CPM that a site-specific ~~Vulnerability Assessment and~~ Operations Site Security Plan ~~are~~is available for review and approval. In the Annual Compliance Report, the project owner shall include a statement that all current project employee and appropriate contractor background investigations have been performed, and updated certification statements are appended to the Operations Security Plan. In the Annual Compliance Report, the project owner shall include a statement that the Operations Security Plan includes all current hazardous materials transport vendor certifications for security plans and employee background investigations.

Hazardous Materials Appendix B

(Please see change to the last item in the table – Therminol)

Hazardous Materials Appendix B
Hazardous Materials Proposed for Use at Victorville 2[a]

Material	CAS No.	Application	Hazardous Characteristics	Maximum Quantity On Site
Amine Nalco 352 (morpholine)	110-91-8	Boiler water treatment	Low toxicity	75 gal plastic tote
Aqueous Ammonia <20% solution	1336-21-6	NO_X Emissions Control	Health: irritation to permanent damage from inhalation, ingestion, and skin contact Physical: reactive, vapor is combustible	30,000 gallons
Calcium Oxide (Lime)	1305-78-8	pH Adjustment	Low toxicity	4,000 lb

Carbon Dioxide	124-38-9	Fire suppression	Low toxicity; non-flammable gas	24 tons
Detergent (ZOK or equivalent)	None	Periodic cleaning of turbines	Health: various Physical: various	Up to 330 gallons, only temporarily on-site
Diesel Fuel	None	Black-start generator fuel, fire-water pump engine	Eye and skin irritation	1,500 gallons
Ferric Sulfate, 35% solution	10028-22-5/ 7720-78-7	Boiler Water treatment	Moderate toxicity	8,000 gal
Hydrogen Gas	1333-74-0	Generator coolant	Low toxicity; Flammable gas	320 lb in generator plus 650 lb storage
Insulating Oil	8012-95-1	Electrical transformers	Health: hazardous if ingested Physical: may be flammable/combustible	65,000 gallons
Lubrication Oil	7440-66-6	Lubricate rotating equipment	Health: hazardous if ingested Physical: may be flammable/ combustible	4,000 gallons
Magnesium Chloride, 31% solution	7786-30-3/ 7791-18-6		Low toxicity	10,000 gal
Oxygen Scavenger Nalco Eliminox (carbohydrazide)	497-18-7	Boiler water treatment	Low toxicity	200 gal plastic tote
Phosphate Feed, Nalco BT 3000	None	Boiler water treatment	Low toxicity	400 gal plastic tote
Sodium Hydroxide (50%)	1310-73-2	pH control	High toxicity, corrosive	7,500 gal
Sodium Hypochlorite (12.5%)	7681-52-9	biocide	Corrosive, reactive with acids and amines	2,500 gal
Sulfur hexafluoride gas	2551-62-4	Gaseous dielectric	Low toxicity; non-flammable gas	960 lb used in switchgear

Sulfuric Acid (93%)	7664-93-9	pH control	Health: strong irritant to all tissues, may cause minor burns to permanent damage Physical: highly reactive	10,000 gal
Therminol VP-1 or equivalent formula (Diphenyl ether Biphenyl)	101-84-8 92-52-4	Heat transfer fluid	Moderate toxicity and flammability	260,000 gal

a. Source: Victorville2 2007a revised Table 6.7-3

SOIL AND WATER RESOURCES – TESTIMONY OF JOHN KESSLER

Victorville 2 Hybrid Power Project
Docket 07-AFC-1

April 2, 2008

In considering water supply and cooling alternatives for proposed power plants, staff relies on the water conservation policy adopted by the Energy Commission as part of its 2003 Integrated Energy Policy Report. The policy is reiterated as follows:

- Consistent with the Board policy and the Warren-Alquist Act, the Energy Commission will approve the use of fresh water for cooling purposes by power plants which it licenses only where alternative water supply sources and alternative cooling technologies are shown to be "environmentally undesirable" or "economically unsound."

- Additionally, as a way to reduce the use of fresh water and to avoid discharges in keeping with the Board's policy, the Energy Commission will require zero-liquid discharge technologies unless such technologies are shown to be "environmentally undesirable" or "economically unsound."

- The Commission interprets "environmentally undesirable" to mean the same as having a "significant adverse environmental impact" and "economically unsound" to mean the same as "economically or otherwise infeasible."

Staff interprets the policy as having a primary objective of conserving fresh water, and allowing a variety of methods for achieving that objective. If the project were to use dry cooling for steam condensation and inlet air cooling of the Combustion Turbine Generators, it could reduce annual process water demands on the order of 90 – 95% of the proposed annual use of 3,150 acre-feet/year as associated with wet cooling. While this could be a benefit to the regional water supply if the reclaimed water were instead contributing to replenishing groundwater resources, lacking a significant environmental impact or LORS conformance issue, staff does not believe that it can compel the applicant to utilize dry cooling. There are also other associated impacts associate with using dry cooling rather than wet cooling, including a larger footprint for the air-cooled condenser, potential for greater noise and visual effects, an increase in parasitic load associated with requiring more cooling fans, and a loss in power production with the steam turbine as associated with less efficient cooling during periods of high air temperature.

Staff's conclusion that the Victorville 2's proposed use of reclaimed water for process needs, utilizing wet cooling and reusing process wastewater as recovered in the ZLD process would not cause a significant environmental impact and would conform to LORS is based on the following:

1. The source of reclaimed water from Victor Valley Water Reclamation Authority (VVWRA) is currently available, and is of sufficient supply to reliably serve the project;
2. Reclaimed water from VVWRA is the most degraded source of water supply reasonably available to the project, and is not considered fresh water;
3. The city of Victorville has entitlement under its agreement with VVWRA to use of all reclaimed water available after VVWRA meets the requirements of its California Department of Fish and Game (CDFG) MOU for releases into the Mojave River;
4. Victorville 2's use of reclaimed water would not cause a significant adverse impact to other users;
5. The use of reclaimed water as produced at VVWRA's wastewater treatment plant is not conditioned under the Mojave Basin Adjudication, and thus Victorville 2's use would not be inconsistent with the adjudication; and
6. Victorville 2's use of reclaimed water would not negatively affect the VVWRA's compliance with its CDFG MOU.

TRAFFIC AND TRANSPORTATION – TESTIMONY OF JOHN KESSLER

Victorville 2 Hybrid Power Project
Docket 07-AFC-1

April 2, 2008

Staff is proposing a minor revision to its previously-proposed Condition of Certification **TRANS-5** as included in the first addendum to the FSA. The purpose of **TRANS-5** is to provide the Energy Commission with verification before initiating project construction that the Federal Aviation Administration has determined the Heat Recovery Steam Generators would not pose a hazard to navigable air space related to aircraft operations of the Southern California Logistics Airport.

PROPOSED CONDITIONS OF CERTIFICATION

TRANS-5 Prior to initiating construction of above-ground features of the project, the project owner shall provide verification to the CPM that the FAA has determined the HRSGs would not pose a hazard to navigable air space related to aircraft operations of the SCLA.

Verification: At least 30 days prior to initiating construction of above-ground features of the project, the project owner shall provide verification to the CPM that the FAA has determined the HRSGs would not pose a hazard to navigable air space related to aircraft operations of the SCLA.

Declaration of John Kessler
Victorville 2 Hybrid Power Project

Docket 07-AFC-1

I, John Kessler, declare as follows:

1) I am a consultant to the California Energy Commission for the Siting Office of the Energy Facilities Siting Division as a Project Manager.

2) A copy of my professional qualifications is included in the Final Staff Assessment for the Victorville 2 Hybrid Power Project, filed on March 19, 2008.

3) On March 28, 2008, staff filed a document in this proceeding entitled *Additional Testimony and Addendum to Final Staff Assessment Filed by Energy Commission Staff*. The testimony contained in that document was prepared under my direction. I am personally familiar with the facts in that document relating to cultural resources, noise, traffic and transportation, visual resources, and alternatives, and if called as a witness, could testify competently thereto.

4) On April 1st, 2008, the Hearing Officer for this proceeding issued an Order directing parties to exchange copies of documentary evidence not already provided in connection with the air quality and biological resources issues no later than noon April 2, 2008.

5) Staff has prepared additional attached testimony in response to the Hearing Officer's April 1st, 2008 Order, addressing the following topics:

    a. Hazardous Materials Management – a minor non-substantive changes to Condition of Certification HAZ-1.

    b. Traffic and Transportation – a minor, non-substantive change to Condition of Certification TRANS-5, submitted on March 28, 2008.

    c. Biological Resources – minor, non-substantive changes to Conditions of Certification BIO-1 and BIO-6. With respect to BIO-18, staff will be requesting at the Evidentiary Hearing that the Committee hold open the record so that staff can conduct a telephonic workshop on the language of BIO-18 and submit a revised version no later than May 16, 2008.

6) I am personally familiar with the data included in the documents identified in 5, and if called as a witness, could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: April 2, 2008 Signed: John S Kenler

At: Sacramento, CA

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

APPLICATION FOR CERTIFICATION FOR THE VICTORVILLE 2 *HYBRID POWER PROJECT*	Docket No. 07-AFC-1 PROOF OF SERVICE *(Revised 9/6/07)*

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:

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DECLARATION OF SERVICE

I, **Chester Hong,** declare that on **April 2, 2008,** I deposited copies of the attached **Victorville 2 Hybrid Power Project (07-AFC-1) – Additional Testimony of Energy Commission Staff** 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.

CHESTER HONG