



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

IN THE MATTER OF:

APPLICATION FOR CERTIFICATION FOR THE
VICTORVILLE 2 HYBRID POWER PROJECT

DOCKET No. 07-AFC-1

ERRATA AND REVISIONS TO THE PRESIDING MEMBER'S PROPOSED DECISION

After reviewing the comments submitted by the parties, and discussing the comments and hearing additional testimony at the June 17, 2008 Committee Conference, we incorporate the following changes to the Presiding Member's Proposed Decision (PMPD):

AIR QUALITY

1. Pages 105 – 109:

The discussion of PM_{2.5} and PM₁₀ has been modified to reflect Staff's revised analysis and the Applicant's and Staff's comments on the PMPD, and Table **AQ-4** has been revised to reflect PM 2.5 and PM₁₀ measurements described in Exhibit 210 and set forth in Applicant's Prehearing Conference Statement and the Final Determination of Compliance (FDOC).

2. Conditions of Certification:

AQ-SC3, AQ-SC4, AQ-SC6, AQT-3, AQT-5, AQT-9, AQT-11, AQT-13, AQT-16, AQEG-5, AQEG-7, AQFP-5, and AQFP-7 have been modified to reflect the changes requested by both Applicant and Staff in their respective comments on the PMPD.

3. The following paragraph has been inserted at page 107:

At the Committee Conference, the Applicant requested that Condition of Certification **AQ-SC9** be modified to allow the Applicant to begin construction after paving roads sufficient to offset the construction-related PM₁₀ impacts (18.1 tons) and to complete road paving sufficient to offset operation-related PM₁₀

impacts no later than six months following commencement of construction. However, Applicant's use of road paving credits is pursuant to MDAQMD rules, in particular Rules 1302 and 1406. Rule 1302 (C)(5)(b)(v) requires that "The Offsets must be obtained prior to the commencement of construction on the new or Modified Facility." (emphasis added.) Under the District's interpretation of its Rule, one may "obtain" a road paving credit by paving roads. However, the Rule does not provide for a "phased" provision of offsets--whether in the form of road paving or otherwise--as the Applicant requests. The Rule provides only for obtaining offsets prior to the commencement of construction. We therefore decline Applicant's request to perform much of the road paving after the commencement of construction, and adopt revised Condition of Certification **AQ-SC9** as set forth in Staff's Comments on the PMPD.

4. The discussion of Intervenor CURE's arguments regarding District Rule 1406 and the use of road paving credits to offset PM10 emissions, starting on page 108, has been expanded.
5. Condition of Certification **AQ-SC9** has been revised to read as follows:

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 PM10, prior to the start of construction of the project. Calculations of 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. All paving of roads shall be complete at least 15 days prior to the start of construction of the project.

Verification: At least 60 days prior to the start of 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 travelled (DVMT), their actual road dust silt content, and calculations showing the appropriate amount of emissions reductions due to paving of each road segment.

BIOLOGICAL RESOURCES

6. Page 171:

Following the end of the first partial paragraph, the following verbiage has been added:

However, it is worth emphasizing here that no Incidental Take Permit is required for this project, due to the Energy Commission's overarching jurisdiction pursuant to Public Resources Code section 25500. CEC certification provides the necessary authorization as required by the California Endangered Species Act.

7. Condition of Certification **BIO-1**, verification, has been modified to state that information regarding the Designated Biologist is to be submitted to the CPM 60 days prior to site mobilization.
8. Condition of Certification **BIO-6**, verification, has been modified as requested by Staff in its Comments on the PMPD.
9. Condition of Certification **BIO-9**, paragraph 2, has been modified to require daily maintenance monitoring of permanent desert tortoise exclusion fencing during construction, and monthly monitoring thereafter.
10. Condition of Certification **BIO-10 Verification:** has been modified to read as follows:

Verification: At least 60 days prior to start of any project-related ground disturbance activities, the project owner shall provide the CPM with the final version of the BRMIMP, which includes any necessary impact avoidance measures. All modifications to the approved BRMIMP must be made only after review and approval by the CPM in consultation with CDFG and USFWS.

11. Condition of Certification **BIO-12**, third sentence of paragraph 14, has been modified to read as follows:

All translocated animals found during a dawn to dusk search will be monitored monthly to include two consecutive spring seasons, after which transmitters will be removed.

12. Conditions of Certification **CUL-2, CUL-3, CUL-8, and CUL-10** have been modified as requested by Applicant in its Comments on the PMPD.

13. Page 231, paragraph 1, last sentence, has been modified to read:

While the original line will be located within the same right-of-way, approximately 10 miles of the original route of the line will be used as Segment 3 of the project transmission line.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

14. The **Verification:** for Condition **PAL-1** has been changed to require that the resume of the designated PRS be submitted to the CPM 30 days prior to site mobilization rather than 60 days prior to the start of ground disturbance.

LAND USE

15. Condition of Certification **LAND-2** has been replaced with the following:

LAND-2 The project owner shall adjust the boundaries of all parcels or portions of parcels that constitute the Victorville 2 project site as necessary to create a single parcel, under single ownership, within the City of Victorville jurisdiction, in accordance with provisions and procedures set forth in the City of Victorville's Municipal Code, Title 17 (Subdivision Ordinance).

Verification: At least 30 days prior to construction of the Victorville 2 project, the project owner shall submit evidence to the CPM, indicating site control for all parcels that comprise the Victorville 2 project site. Upon obtaining legal ownership of all parcels that comprise the Victorville 2 project site, the project owner shall commence an action to create a single parcel of all such parcels. Within 10 days of the completion of the creation of a single parcel of all parcels that comprise the Victorville 2 project site, the project owner shall provide evidence of the creation of a single parcel to the CPM.

TRAFFIC AND TRANSPORTATION

16. Condition of Certification **TRANS-2, Verification:** first paragraph, first sentence, 90 days has been changed to 60 days.

17. Condition of Certification **TRANS-5**, has been deleted because the FAA has provided the required documentation.
18. Page 321, last paragraph, after the first sentence the following text has been added:

“That determination is conditioned on no project structure exceeding 145 feet above ground level.”

SOIL AND WATER RESOURCES

19. Pages 212 – 214: the discussion of project water supply has been modified to reflect Staff’s comments on the PMPD. Additional historical background on the legal framework for the distribution of water resources in the region has been provided.
20. Conditions of Certification **SOIL & WATER- 2, SOIL & WATER-4** and **SOIL & WATER-5** have been modified as requested by Applicant in its Comments on the PMPD.

TRANSMISSION SYSTEM ENGINEERING

21. The Interconnection Facilities Studies Report, prepared by the California Independent System Operator, has been entered into evidence as Exhibit 218 and referred to in the text at page 78.

FACILITY DESIGN

22. Condition of Certification **GEN-1** has been modified to clarify that the Building Code applicable to the GE-supplied equipment is the 2001 version of the CBSC.

HAZARDOUS MATERIALS MANAGEMENT

23. Condition of Certification **HAZ-9** has been modified to eliminate the reference to a Vulnerability Assessment.

24. At page 156, the phrase “or equivalent formula” has been added to “Therminol VP-1” in Appendix A.

PUBLIC HEALTH

25. At page 142, the phrase “or equivalent formula” has been added to “Therminol VP-1” in the first sentence.
26. Findings and Conclusion number 5 has been added at page 144 to reflect the evidentiary showing regarding health impacts of road paving.

Dated on June 30, 2008, at Sacramento, California.

Original Signed by:

JAMES D. BOYD
Vice Chair and Presiding Committee Member
Victorville AFC Committee

Original Signed by:

JACKALYNE PFANNENSTIEL
Chairman and Associate Committee Member
Victorville AFC Committee