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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the Pico
Power Project

DOCKET NO. 02-AFC-3

**SILICON VALLEY POWER'S
PREHEARING CONFERENCE
STATEMENT**

Silicon Valley Power (SVP), a division of the City of Santa Clara, in accordance with 20 CCR § 1718.5 and the Committee Order dated March 24, 2003, hereby files its Prehearing Conference Statement. SVP is prepared to proceed to evidentiary hearing on all topic areas contained in Part 1 of the Staff Assessment. The attached table (Table 1) presents a summary (by topic area) of:

- Whether or not disputes between the parties concerning the subject area exist including a description of the precise nature of each dispute;
- Identity of witnesses, and qualifications including a brief summary of the witness's testimony, and
- Time estimate for direct and cross-examination.

Table 1 includes estimates for direct examination by SVP witnesses based on SVP's belief that most topic areas can be submitted into the evidentiary record on declaration.

STAFF ASSESSMENT AND CONDITIONS

On April 8, 2003, CEC Staff conducted a workshop to discuss comments on the Staff Assessment. No members of the public were present or participated via telephone. At that workshop, SVP proposed modifications to the Staff's proposed conditions of certification. After discussion, Staff accepted many of these suggested modifications. However, in a few areas Staff requested the suggested modifications be presented in writing for review and/or required additional internal discussion before a response could be made. SVP agreed to provide all suggested modifications in redline/strikeout format to Staff prior to the April 16, 2003 Prehearing Conference. A copy of the suggested modifications will be docketed and hand delivered to the Hearing Office prior to the Prehearing Conference.

SVP has prepared the attached summary table (Table 2), which identifies those conditions for which specific language modifications have not yet been resolved. Additionally, Table 2 contains SVP's opinion of whether, absent agreement with Staff, resolution would require submission of evidence at an evidentiary hearing or the Committee could resolve the disputed language upon review of the briefs of the parties. SVP believes that all other conditions not identified in Table 2 are either acceptable as written or Staff has agreed to modifications discussed at the Staff Assessment workshop on April 8, 2003.

EXHIBIT LIST

As required by the Prehearing Conference Order SVP submits the attached Tentative Exhibit List for the Committee's use.

OUTSTANDING ISSUES AND SCHEDULE

As directed by the Prehearing Conference Order the following is a summary of scheduling issues related to Biological Resources, Air Quality and Alternatives.

Biological Resources

The topical area of Biological Resources was included in the Staff Assessment. At this time, SVP and CEC Staff have different opinions as to the amount of serpentine grassland acreage that should be required to mitigate any potential impacts to the Bay Checkerspot Butterfly. Out of an abundance of caution, SVP sought consultation with USFWS under Section 10 of the Endangered Species Act and has submitted a Resource Management Plan to USFWS to determine whether the consultation and approval of its Habitat Conservation Plan (HCP) can be expedited. SVP is currently working closely with USFWS to ensure appropriate and timely processing. SVP believes, and USFWS orally agreed at the April 8, 2003 Staff Assessment Workshop, that it should qualify for expedited processing. Upon receipt of written confirmation from USFWS that SVP's HCP does indeed qualify for expedited processing, SVP is willing to offer an amount of compensation acreage consistent with the CEC Staff Assessment and therefore will no longer have any dispute with Staff. USFWS has indicated such written confirmation should be received by SVP by the end of April.

Air Quality

SVP continues to work with the Bay Area Air Quality Management District (BAAQMD) on issuance of the Preliminary Determination of Compliance (PDOC). To that end, SVP has agreed to a lower NOx emissions level and is currently discussing permit condition language that would allow some relief from such a low level during times of rapid load change. The BAAQMD approved a similar approach for the East Altamont Energy Center project. We anticipate issuance of the PDOC by May 1, 2003. We believe that the PDOC will receive little or no comment, therefore resulting in the ability for Staff to issue Part 2 of its Staff Assessment prior to issuance of the Final Determination of Compliance (FDOC).

Alternatives

SVP anticipates no issues that could delay the preparation of the Alternatives analysis in Part 2 of the Staff Assessment at this time.

SVP will be ready to participate in the evidentiary hearing on May 7, 2003 and believe that the evidentiary hearing should take no more than half a day. We propose that the parties file opening briefs by May 21, 2003. While we do not anticipate the need for reply briefs, we would support a schedule that would require reply briefs to be filed on May 26, 2003.

We appreciate the Committee's recognition that the Pico Power Project is an important public power project and its desire to assist in expedited licensing.

Dated, April 11, 2003

Scott A. Galati
Galati & Blek, LLP
Counsel to Silicon Valley Power

TABLE 1

	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
PROJECT DESCRIPTION	None	John Roukema , Project Sponsor SVP Les Ward , General Manager Pico Project	Description of project components and purpose	15 minutes	None
BIOLOGICAL RESOURCES	Yes ¹	Brett Hartman , TetraTech FW, Inc. Biologist Greg Darwin , RTP Env. Air Quality Modeling Specialist	Description of impacts to serpentine grassland, description of modeling techniques	1 hour	2 hours
CULTURAL RESOURCES	None	Jenna Farrell , TetraTech FW, Inc., Archeologist	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
HAZARDOUS MATERIALS	None	Doug Urry , TetraTech FW, Inc.	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
WORKER SAFETY AND FIRE PROTECTION	None	Doug Urry , TetraTech FW, Inc.	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
LAND USE	None	Brett Moore , TetraTech FW, Inc. Land Use Specialist	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
NOISE AND VIBRATION	None	Tom Adams , TetraTech FW, Inc. Noise Specialist	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None

¹ At this time, SVP and CEC Staff have different opinions as to the amount of serpentine grassland acreage that should be required to mitigate any potential impacts to the Bay checkerspot butterfly. SVP is currently working closely with USFWS to ensure appropriate and timely processing of its Habitat Conservation Plan (HCP). SVP believes, and USFWS has orally agreed, that its HCP qualifies for expedited processing. Upon receipt of written confirmation from USFWS that SVP's HCP does indeed qualify for expedited processing, SVP is willing to offer an amount of compensation acreage consistent with the CEC Staff Assessment and therefore will no longer have any dispute with Staff.

	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
PUBLIC HEALTH	None	Rick Booth , Public Health Specialist	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
SOCIOECONOMICS	None	Doug Davy , TetraTech FW, Inc. AFC Project Manager	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
SOIL AND WATER RESOURCES	None	Suzanne Burnell , Tetra Tech FW, Inc. Water Resources Specialist Mike Fox , Project Engineer	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
TRAFFIC AND TRANSPORTATION	None	Doug Davy , TetraTech FW, Inc. AFC Project Manager	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
VISUAL RESOURCES	None	Doug Davy , TetraTech FW, Inc. AFC Project Manager Scott Muller , Tetra Tech FW, Inc. Visual Resources Specialist	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
WASTE MANAGEMENT	None	Doug Urry , TetraTech FW, Inc. Hazardous Materials Specialist Don McArthur , Env. Manager	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
FACILITY DESIGN, POWER PLANT RELIABILITY AND EFFICIENCY	None	George Claypoole , Engineering and Construction Manager.	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None

	DISPUTES BETWEEN PARTIES	WITNESS	TESTIMONY SUMMARY	DIRECT TESTIMONY ESTIMATE	CROSS-EXAM ESTIMATE
GEOLOGY AND PAELONTOLOGY	None	Doug Davy , TetraTech FW, Inc. AFC Project Manager	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
TRANSMISSION SYSTEM ENGINEERING AND TRANSMISSION LINE SAFETY AND NUISANCE	None	Jim Carlson , Project Engineer	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None
COMPLIANCE MONITORING AND FACILITY CLOSURE	None	Andrea Grenier , SVP Compliance Project Manager	Submitted on Declaration	5 minutes for purposes of identifying exhibits	None

TABLE 2

CONDITION	SUMMARY OF PROPOSED MODIFICATIONS	EFFECT ON EVIDENTIARY HEARING
LAND-8	SVP proposed language to ensure that the partial realignment of the pedestrian/bicycle pathway would need to be completed <i>prior to construction of the gas metering station</i> to make it clear that it was not required prior to construction within the main project site or other areas of the proposed gas line.	None. SVP believes that agreement in concept has been reached with Staff. If specific language is not acceptable SVP believes that the Committee could craft a resolution based upon the parties briefs.
NOISE-8	SVP suggested modifications to delete the restriction on construction hours because they are not needed to mitigate an impact and SVP as a utility is exempt from the local LORS that embody the restrictions.	None. SVP believes that Staff has agreed in concept but requested review of written changes.
SOIL & WATER 6	SVP suggested additional language that allowed for additional backup groundwater uses during natural disasters and other Acts of God identical to the language certified in the Russell City Energy Center case.	None. Staff requested review of the language before it could approve. If not approved, we believe that the Committee could craft a resolution based on the briefs of the parties.
SOIL & WATER 8	SVP requested that Staff modify the condition to: set identifiable performance standards; replace language requiring an amendment with a requirement to submit a corrective plan for approval; and to specify the roles of the CEC and the Santa Clara Valley Water District more clearly.	None. SVP believes that the parties have reached agreement in concept and will continue to work together on acceptable language. Any discrepancy in actual language can be resolved by the Committee upon the briefs of the parties.
TRANS-7	The parties are currently working on allowing two additional routes to the traffic plan, which may require minor modifications to the condition specifying the requirements for use of alternative routes.	None.