

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov



DATE: August 10, 2018
TO: Interested Parties
FROM: Anwar Ali, Compliance Project Manager
**SUBJECT: Oakley Generating Station (09-AFC-04C)
Staff Analysis of Facility Closure Plan**

On July 18, 2018, the Contra Costa Generating Station, LLC (CCGS), the owner of Oakley Generating Station (OGS) project, submitted a Facility Closure Plan to the California Energy Commission requesting permanent closure of the project (TN 224258). On July 24, 2018, DayZen LLC, on behalf of CCGS, filed a request to terminate the OGS license (TN 224291).

The OGS was designed as a 624 megawatt natural gas-fired, combined-cycle electrical generating facility. The project site is located in the City of Oakley adjacent to the eastern limits of the City of Antioch in Contra Costa County, California, on a 21.95-acre parcel within a 210-acre parcel owned by the Chemours Company (formerly DuPont Corporation). The facility was designed to tie into the regional electrical grid at Pacific Gas and Electric Company's (PG&E's) Contra Costa Substation in Antioch. The project was certified by the Energy Commission on May 18, 2011.

Construction at the OGS site commenced on June 10, 2011 and was limited to installation of an 11x15.5-foot concrete foundation for the emergency diesel generator, installation of a 5x5-foot power pole pad, approximately 20 acres of ground clearance and grading, and construction of bio-swales and a storm water detention basin. Fill material removed from the project site was transferred to a 2.7-acre temporary soil stockpile within the adjacent Chemours Company property. The soil stockpile will be used by Chemours Company for remediation of the former DuPont industrial property and other redevelopment activities. Project construction was suspended in September 2011, and no additional project-related features were constructed.

DESCRIPTION OF PROPOSED FACILITY CLOSURE PLAN

The Facility Closure Plan was filed with the Energy Commission for approval pursuant to Condition of Certification **COMPLIANCE-11** (Planned Closure) in the 2011 Commission Decision. **COMPLIANCE-11** states "[i]n order to ensure that a planned facility closure does not create adverse impacts, a closure process that provides for careful consideration of available options and applicable laws, ordinances, regulations,

standards, and local/regional plans in existence at the time of closure will be undertaken. To ensure adequate review of a planned project closure, the project owner shall submit a proposed facility closure plan to the Energy Commission for review and approval at least 12 months (or other period of time agreed to by the CPM [compliance project manager]) prior to the commencement of closure activities.”

According to the Facility Closure Plan, CCGS proposes to transfer the OGS property control to Chemours Company. The Chemours Company (as holder of the fee simple interest) will acquire all rights and interest in the OGS site upon approval of the Facility Closure Plan and Request for License Termination by the Energy Commission, subject to final execution of the termination documents. The Chemours Company acknowledges that it will acquire the site with the existing features in their present condition, including the concrete foundation for the emergency diesel generator, the power pole pad, the drainage facilities (the bio-swales and the storm water detention basin), Wetland E, and the off-site soil stockpile.

Wetland E contains a 0.6-acre wetland area that is managed by the California Department of Fish and Wildlife (CDFW). Contra Costa Generating Station, LLC incorporated Wetland E as a project element and committed to restore and manage it as a wetland habitat for the life of the project. The Chemours Company understands and acknowledges the existence of Wetland E on the project site and that it is subject to a conservation easement administered by the CDFW.

The Facility Closure Plan would not involve any demolition of structures or foundations, or the transportation or recycling of waste, equipment, or other materials.

For additional information, the Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/oakley/index.html>, has a link to the Oakley Generating Station Facility Closure Plan (TN 224258) accessible through the webpage in the box labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option.

STAFF ANALYSIS

The Energy Commission's technical staff reviewed the Facility Closure Plan and assessed the potential effects on environmental quality, public health and safety, and consistency with applicable laws, ordinances, regulations and standards (LORS), as required by **COMPLIANCE-11**.

Staff has determined that the following technical or environmental areas are not affected by the proposed Facility Closure Plan: Air Quality, Cultural Resources, Facility Design, Geological and Paleontological Resources, Hazardous Materials Management, Land Use, Noise and Vibration, Public Health, Socioeconomics, Traffic and Transportation, Transmission Line Safety and Nuisance, Transmission System Engineering, Visual Resources, Waste Management, and Worker Safety and Fire Protection.

For the technical areas of Biological Resources and Soil and Water Resources, staff has determined that the Facility Closure Plan would not result in any significant

environmental impacts and would comply with the Energy Commission’s conditions of certification and all applicable LORS.

Staff’s conclusions for each of the above technical or environmental areas are summarized in the following table.

SUMMARY OF STAFF RESPONSES TO FACILITY CLOSURE PLAN

TECHNICAL/ENVIRONMENTAL AREAS REVIEWED	STAFF RESPONSE		
	Technical Area Not Affected	No Significant Environmental Impact or LORS Inconsistency	Significant Environmental Impact
Air Quality	X		
Biological Resources		X	
Cultural Resources	X		
Facility Design	X		
Geological & Paleontological Resources	X		
Hazardous Materials Management	X		
Land Use	X		
Noise & Vibration	X		
Public Health	X		
Socioeconomics	X		
Soil & Water Resources		X	
Traffic & Transportation	X		
Transmission Line Safety & Nuisance	X		
Transmission System Engineering	X		
Visual Resources	X		
Waste Management	X		
Worker Safety & Fire Protection	X		

Staff notes the following for the Biological Resources and Soil and Water Resources technical areas.

BIOLOGICAL RESOURCES

The request to terminate would not require any additional or different activities from those permitted under the license. The project owner provided confirmation in a letter dated June 21, 2017 of payment of fees to the City of Oakley as required by Condition of Certification **BIO-8**. Documentation included a letter from the City of Oakley approving the planting of 18 trees to replace and mitigate for the removal of 6 trees protected under the city's tree ordinance. The project owner made a one-time payment to the East Contra Costa County Conservancy to compensate for the project's temporary and permanent impacts on wildlife habitat as part of compliance with Condition of Certification **BIO-21**.

The Wetland E Monitoring and Adaptive Management Plan was approved in 2011 and was required as part of Conditions of Certification **BIO-19** and **SOIL&WATER-6**. Condition of Certification **BIO-19** required the project owner to implement habitat improvements within the Wetland E site. However, because of the limited extent of project construction, these habitat improvements were not initiated. Please see "Soil and Water Resources" below for more information about Wetland E and compliance with **SOIL&WATER-6**.

On July 26, 2018 and in compliance with Condition of Certification **BIO-6** (Biological Resources Mitigation Implementation and Monitoring Plan [BRMIMP]), the project owner docketed a Biological Resources Construction Completion Report (TN # 224307). A Biological Resources Construction Completion Memo prepared by Designated Biologist (DB) Richard Crowe was docketed on July 26, 2018 as an addendum to the completion report (TN # 224308). The project owner provided copies of the construction completion report and the DB's memo via email on July 26, 2018 to East Contra Costa County Habitat Conservancy, CDFW, and United States Fish and Wildlife Service. The memo details the DB's inspection of the site, as required under Section 9 of the approved BRMIMP, including confirmation that all orange protective fencing observed during staff's site visit on July 19, 2018 was removed from the OGS site. This ensures that there would be no adverse effects to biological resources related to construction debris remaining on site after termination of the license.

Staff confirmed with CDFW representative Jeanette Griffin (who attended the July 19 site visit) that CDFW is satisfied with the summary of clean-up activities included in the memo. CDFW understands that, with approval of the license termination, all existing OGS facilities that were constructed prior to the suspension of construction would remain on site and no further site restoration would take place. Ms. Griffin said it is acceptable to leave up the solid T-posts for Chemours Company to use as these identify the "environmentally sensitive area" of the trees.

The proposed termination should not require any further action on behalf of the project owner. The site is in adequate condition for termination of the project's license, with respect to the LORS and conditions of certification protecting Biological Resources.

SOIL AND WATER RESOURCES

The ground disturbance associated with construction of the bio-swales and retention basin was covered by the project owner's enrollment (June 2011) under the State Water Resources Control Board's (SWRCB) General Construction Permit for storm water discharges. After construction of the storm water control system and revegetation which has stabilized exposed soil surfaces, the project owner filed a Notice of Termination with the SWRCB in March 2017. These activities comply with the terms of Condition of Certification **SOIL&WATER-2**.

Staff conducted a site visit on July 19, 2018, to observe the condition of the site's permanent storm water control bio-swales, the stockpile (known as Stockpile 2), the retention basin, and Wetland E. Staff observed that Stockpile 2 appeared to be subject to significant erosion. Based on discussions with the project owner, there were at least two events where erosion required remediation. Appropriate erosion control measures such as straw wattles, silt fence, and berm repair were implemented to control potential offsite impacts from sedimentation. These controls remain in place and appear to be functioning as intended.

Staff also observed the condition of the storm water control system. It consisted of two bio-swales, and a retention basin and flow control system intended to ensure no impacts from onsite storm water runoff. At the time of the site visit, the bio-swales were vegetated and the connected culverts were clear and functional. The retention basin and the connected flow control inlets and weirs also appeared to be functional and can operate as intended.

Condition of Certification **SOIL&WATER-6** required the project owner to develop a Wetland E Monitoring and Adaptive Management Plan, which required regular water level and water quality monitoring. Staff reviewed compliance submittals contained within the project's monthly compliance reports and found no data suggesting a significant and adverse environmental effect to Wetland E.

Staff consulted with CDFW regarding the closure of the project and the transfer of ownership of Wetland E. CDFW understands that, with approval of the license termination, all existing project facilities would remain onsite and that no further site restoration would take place. CDFW understands that any further coordination as it relates to Wetland E would be with Chemours Company and that CCGS would cease implementing the Wetland E Monitoring and Adaptive Management Plan. CDFW has previously reviewed the Wetland E Monitoring and Adaptive Management Plan in accordance with the Condition of Certification **SOIL&WATER-6**. CDFW has also received copies of all associated reports. Through compliance with Condition of Certification **SOIL&WATER-6**, staff has ensured CDFW has the necessary information to take over regulation of the Wetland E protection program.

The proposed termination should not require any further action on behalf of the project owner. The site is in adequate condition for termination of the project's license, with respect to the LORS and conditions of certification protecting Soil and Water Resources.

STAFF'S CONCLUSIONS

- Construction of OGS was not completed and the limited construction activities that had occurred at the project site were discontinued in September 2011;
- CCGS would transfer control of the OGS site to Chemours Company for its future use. The site transfer would take place after Energy Commission approval of the Facility Closure Plan and the Request for License Termination;
- No site restoration would be performed by CCGS prior to the transfer of the site control to Chemours Company;
- There would be no demolition of structures or foundations, or transportation or recycling of waste, equipment, or other materials as part of the Facility Closure Plan;
- Chemours Company would take control of the OGS site in “as is” condition with features that include a construction power pole and pad, the storm water drainage facilities (bio-swales and storm water detention basin), the concrete foundation for emergency diesel generator, the off-site soil stockpile, and the metal fencing T-posts which would be used for demarcation of trees as “environmentally sensitive area”;
- Chemours Company has committed that any future development and improvement at the site would be subject to all LORS enforced by applicable agencies, including but not limited to the City of Oakley;
- The hydrology and the biological values of Wetland E were maintained in accordance with Conditions of Certification **BIO-19** and **SOIL&WATER-6** and the project construction had no adverse environmental impacts on Wetland E;
- Chemours Company acknowledges the existence of Wetland E on the site and that it is subject to a conservation easement administered by CDFW;
- No further habitat improvements within the Wetland E is needed as required by Condition of Certification **BIO-19** because of the limited extent of project construction;
- Chemours Company has committed that any future development or improvement at the site, would require coordination with the CDFW to ensure that such development and improvements would not negatively impact Wetland E;
- The project owner has satisfied the compensatory mitigation requirement for project’s temporary and permanent impacts on wildlife habitat in compliance with Condition of Certification **BIO-21**, as well as the mitigation requirement for tree replacement as required by Condition of Certification **BIO-8**;
- The project site is deemed clean of the remnants of the orange exclusionary fencing and CDFW is satisfied with the current condition of the site including the status of the bio-swales and the biological values of Wetland E; and

- CDFW has agreed with the staff's determination that the proposed Facility Closure Plan and the transfer of the property to Chemours Company in its current condition would not have any significant environmental impacts on any of the biological resources present at the site.

Based upon its analysis, staff concludes that the Facility Closure Plan would have no significant effects on environmental quality and on public health and safety, and would be consistent with applicable laws, ordinances, regulations and standards, as required by Condition of Certification **COMPLIANCE-11**.

This Staff Analysis has been mailed to the Energy Commission's facility mail list of interested parties and property owners adjacent to the facility site. It has also been emailed to the facility listserv. The listserv is an automated Energy Commission e-mail system by which information about this facility is e-mailed to parties who have subscribed. To subscribe, go to the Energy Commission's webpage for this facility, cited above, scroll down the right side of the project's webpage to the box labeled "Subscribe," and provide the requested contact information.

Staff intends to recommend approval of the Facility Closure Plan and Request for License Termination at the August 28, 2018 Energy Commission Business Meeting. At the Business Meeting, any person may present oral or written statements or arguments relevant to the proposed Facility Closure Plan. Any interested person may also file an objection to staff's determination prior to the Business Meeting by submitting written comments through Energy Commission's electronic commenting feature. To use this electronic feature to comment on staff's determination, go to the Energy Commission's webpage for this facility, cited above, click on the "Submit e-Comment" link, and follow the instructions in the on-line form. Be sure to include the facility name in your comments. Once submitted, the Energy Commission Dockets Unit reviews and approves your comments, and you will receive an e-mail with a link to them.

Written comments may also be mailed or hand-delivered to:

California Energy Commission
Dockets Unit, MS-4
Docket No. 09-AFC-04C
1516 Ninth Street
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the facility Docket Log and be publicly accessible on the Energy Commission's webpage for the facility.

If you have questions about this Staff Analysis, please contact Anwar Ali, Compliance Project Manager, at (916) 654-5020, or by fax to (916) 654-3882, or via e-mail at anwar.ali@energy.ca.gov.

For information on participating in the Energy Commission's review of the Closure Plan, please call the Public Adviser at (800) 822-6228 (toll-free in California) or send your e-mail to publicadviser@energy.ca.gov. News media inquiries should be directed to the Energy Commission Media Office at (916) 654-4989, or by e-mail to mediaoffice@energy.ca.gov.

Date 8/10/18

Christine Root

Christine Root
Compliance Office Manager
Siting, Transmission & Environmental Protection
Division

CC: Oakley Mail list 7208
Oakley listserv

STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

OAKLEY GENERATING STATION

CONTRA COSTA GENERATING STATION, LLC

Docket. 09-AFC-04C

**ORDER APPROVING FACILITY
CLOSURE PLAN AND REQUEST
FOR LICENSE TERMINATION**

On July 18, 2018, the Contra Costa Generating Station, LLC (CCGS), the owner of Oakley Generating Station (OGS) project, submitted a Facility Closure Plan to the California Energy Commission requesting permanent closure of the project. On July 24, 2018, DayZen LLC, on behalf of CCGS, filed a Request for License Termination.

The OGS was proposed as a 624-megawatt natural gas-fired, combined-cycle electrical generating facility. It was certified by the Energy Commission on May 18, 2011. The project site is located in the City of Oakley in Contra Costa County, California, on a parcel owned by the Chemours Company (formerly DuPont Corporation).

Construction at the OGS site commenced on June 10, 2011 and was limited to installation of an 11x15.5-foot concrete foundation for the emergency diesel generator, installation of a 5x5-foot power pole pad, approximately 20 acres of ground clearance and grading, and construction of bio-swales and a storm water detention basin. Project construction was suspended in September 2011 and the power plant was not built.

CCGS proposes to transfer the OGS site control back to the Chemours Company, the original owner of the site. No site restoration would be performed by CCGS prior to the transfer of site control to the Chemours Company. The Chemours Company (as holder of the fee simple interest) will take control of all rights and interest in the OGS site upon approval of the Facility Closure Plan and Request for License Termination by the Energy Commission. The Chemours Company acknowledges that it will acquire the

site with the existing features in their present condition, including the concrete foundation for the emergency diesel generator, the power pole pad, the storm water drainage facilities (the bio-swales and the storm water detention basin), Wetland E, and the off-site soil stockpile.

No further habitat improvements within the Wetland E are needed as required by Condition of Certification **BIO-19** because of the limited extent of project construction.

The Chemours Company understands and acknowledges the existence of Wetland E on the project site and that it is subject to a conservation easement administered by the California Department of Fish and Wildlife (CDFW). The Chemours Company has committed that any future development or improvement at the site would require coordination with the CDFW to ensure that such development and improvements would not negatively impact Wetland E.

STAFF RECOMMENDATION

Based upon its analysis, staff determined that:

- The transfer of OGS site control to the Chemours Company would have no significant effects on environmental quality, and on public health and safety; and
- The proposed Facility Closure Plan would be consistent with all applicable laws, ordinances, regulations, and standards (LORS), as required by Condition of Certification **COMPLIANCE-11**.

Staff recommends that the Energy Commission approve the Facility Closure Plan and Request for License Termination.

ENERGY COMMISSION FINDINGS

Based on staff's analysis, the Energy Commission finds that:

- The Facility Closure Plan and Request for License Termination would not result in any significant impacts on environmental quality and on public health and safety, and would be consistent with all applicable LORS;
- Only limited construction has occurred at the project site since the project's certification by the Energy Commission and the power plant was not built;
- The project owner has satisfied all mitigation requirements for the project's temporary and permanent impacts;
- The Facility Closure Plan proposes to transfer the Oakley project site control back to the Chemours Company, the original owner of the site;
- The Chemours Company will take control of the OGS site in "as is" condition with the existing features; and
- The Chemours Company will coordinate with the CDFW to ensure that any future onsite development and improvements would not negatively impact the existing Wetland E.

CONCLUSION AND ORDER

The Energy Commission hereby approves the Facility Closure Plan and Request for License Termination.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on August 28, 2018.

AYE:

NAY:

ABSENT:

ABSTAIN:

Cody Goldthrite
Secretariat