

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE WESTERN AREA POWER ADMINISTRATION
AND
THE CALIFORNIA ENERGY COMMISSION
FOR THE PURPOSES OF A JOINT ENVIRONMENTAL REVIEW PROCESS
FOR THE PROPOSED
BLYTHE ENERGY POWER PLANT PROJECT

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UNITED STATES
DEPARTMENT OF ENERGY
WESTERN AREA POWER ADMINISTRATION
DESERT SOUTHWEST REGION

MEMORANDUM OF UNDERSTANDING
FOR
JOINT ENVIRONMENTAL REVIEW PROCESS
WITH
THE CALIFORNIA ENERGY COMMISSION

1. PREAMBLE

This agreement, made this 29th day of February 2000, between the UNITED STATES OF AMERICA, acting by and through the Administrator, Department of Energy (DOE), Western Area Power Administration, herein called Western, represented by the office executing the Agreement; and the staff of the California Energy Commission (Commission), an authorized division of the State of California, herein referred to as the Commission staff, for the review of and preparation of environmental documents on the Blythe Energy Project.

2. EXPLANATORY RECITALS

- 2.1 Blythe Energy Project, LLC., has approached Western and the Commission concerning proposed construction of a gas-powered electrical generation plant, the Blythe Energy Power Plant Project (Project), at a location near Blythe, California. The Project encompasses an interconnection with Western's main transmission system south of Parker Dam.
- 2.2 Western has responsibilities as a Federal agency pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), the regulations of the Council on Environmental Quality (40 CFR 1500-1508), and the regulations of DOE (10 CFR 1021 and 1022), regarding the need to consider the potential environmental impacts associated with the construction, operation and maintenance of the Project, including the modification of existing transmission facilities needed for the interconnection.

- 2.3 The requirements of NEPA are largely procedural, requiring the lead Federal agency to take into account the potential for direct, indirect, and cumulative impacts on the human environment by the Project. NEPA does not mandate an outcome, but requires full disclosure of potential impacts to be considered in decisionmaking.
- 2.4 The Commission is the agency of the State of California authorized with the responsibility for siting all thermal power facilities 50 megawatts (MW) or greater, and the preparation of documentation to satisfy the requirements of the California Environmental Quality Act (CEQA; Public Resources Code 2100 et seq.). The Commission's responsibility includes all aspects of the Project and all related facilities such as water, gas, and electric transmission lines.
- 2.5 The requirements of CEQA are more than procedural, requiring the lead state agency to identify potentially significant environmental impacts associated with the Project, and mandating mitigative feasible measures that reduce identified impacts to less than significant.
- 2.6 Due to the overlapping jurisdiction of NEPA and CEQA, this Agreement establishes the respective responsibilities of Western and the Commission. Western and the Commission will make every effort to reach agreement in order to fulfill the goals of this proposed joint environmental review process.
- 2.7 Western and the Commission staff believe that a joint environmental review process benefits the applicant, each agency, and most importantly the public, by reducing costs, setting a firm schedule, reducing paperwork, eliminating redundancy, and minimizing confusion.

3. AGREEMENT

Western and the Commission agree to the terms and conditions set forth herein.

4. TERM OF THIS AGREEMENT

- 4.1 This agreement shall become effective on the date of its execution and remain in effect until completion of all activities associated with any mitigation or other similar constraints placed on the Project by Western or the Commission.
- 4.2 Either party may terminate this agreement by 30 days notification in writing to the other party. Both parties shall use the 30 days to consult and determine whether the Agreement should remain in force.
- 4.3 Should the Agreement terminate before the completion of the environmental review process, each party shall be responsible for carrying out their own independent environmental reviews pursuant to the legal requirements of each agency.

5. DEFINITIONS

- 5.1 Applicant shall mean Blythe Energy Project, LLC., and its representatives.
- 5.2 Blythe Energy Power Plant Project shall mean the proposed power plant, a 520-MW natural gas-fired combined-cycle plant with two combustion turbines, one steam turbine, and supporting equipment. It also includes the site and all related facilities including water, wastewater, natural gas, and transmission lines, structures and facilities, any modifications to existing facilities, as well as access roads, laydown areas and parking areas.
- 5.3 Lead Federal Agency shall mean the Federal agency responsible for compliance with the requirements of NEPA, the regulations of the Council on Environmental Quality and DOE, as well as with the requirements of other Federal laws and regulations.

- 5.4 Lead State Agency shall mean the State agency that has the principle responsibility of approving a project that may have a significant effect on the environment.
- 5.5 Plant site shall mean the location of the power plant only.
- 5.6 Schedule shall mean the schedule of events in Attachment B to this Agreement.

6. RESPONSIBILITIES OF THE COMMISSION

- 6.1 The Commission is the lead State agency for the purposes of CEQA and the Warren-Alquist Act (Public Resources Code Section 25000 et seq.). That means that the Commission shall have the primary responsibility for the review and certification of environmental, engineering, and design data as established in 6.2 below.
- 6.2 The Commission shall have the responsibility to conduct its review and certification process in accordance with its mandated requirements, with the qualifications noted below. Those responsibilities will include the plant site and all related facilities such as water, wastewater, and gas lines, access roads built for the Project, and all new substations and electric transmission lines from the plant site to the first point of interconnection with Western's transmission system.
- 6.2.1 The Commission shall consult, and try to reach agreement with Western, on any environmental impacts from any proposed changes to Western's existing transmission system.
- 6.2.2 The Commission shall consider extending the timing of certain studies necessary for the consideration of some environmental impacts (for example, biological and cultural). The Commission staff and Western shall confer regarding any changes to the timing of studies or surveys.

- 6.3 The Commission shall provide Western an opportunity to review and comment on the submission of application materials from the applicant before determining the adequacy of the data.
- 6.4 The Commission shall have the primary responsibility to prepare and distribute all joint Commission/Western documents, and chair all meetings and workshops in association with the Project.
- 6.5 The Commission shall endeavor to incorporate the comments of Western regarding significant adverse environmental impacts from the project into the preparation of staff's draft documents. Whenever possible, primary authors and commenters shall communicate directly to resolve conflicts, concerns, or questions.
- 6.6 The Commission shall provide a list of staff contacts for each subject/issue area, to be provided in Attachment A to this Agreement.
- 6.7 The Commission shall consult with Western so that Western's responsibilities under NEPA and other federal mandates are satisfied.

7. RESPONSIBILITIES OF WESTERN

- 7.1 Western is the lead Federal agency for the purposes of compliance with NEPA. This means that Western has the primary responsibility for independent review and analysis of environmental impacts associated with the Project as specified below.
- 7.1.1 Western shall review the application for certification provided to the Commission by the applicant to determine whether Western's requirements are adequately covered by the application. Western shall provide comments on the application to the Commission in a timely manner.

- 7.1.2 Western shall be responsible for the review and comment on the analysis of environmental impacts by the Commission and shall provide timely comments on all draft sections of the preliminary and final Commission staff assessments and any other documents for which staff requests comments.
 - 7.1.3 Western will be responsible for providing a Purpose and Need Statement for the preliminary and final Commission staff assessments.
 - 7.1.4 Western shall have primary responsibility for the determination of conditions or mitigation needs associated with any and all reconstructions or reconfigurations of existing transmission lines and facilities beyond the first point of interconnection. Western shall consult and try to reach an agreement with the Commission staff on any environmental impacts from, or conditions that may be necessary to mitigate environmental impacts to, any proposed changes to Western's existing transmission system.
- 7.2 Western is the lead Federal agency for the purposes of Section 106 of the National Historic Preservation Act, as amended (NHPA; 16 U.S.C. 470f), and the regulations at 36 CFR 800. This means that Western shall have the responsibility to consult directly with the California State Historic Preservation Officer and, if necessary, with the Advisory Council on Historic Preservation, pursuant to the regulations at 36 CFR 800. Western shall make all determinations on the significance of any and all cultural resources and the effects on any significant properties by the Project.
- 7.2.1 Western may be a joint author for the analysis section on cultural resources in the documentation, and share responsibility for its content.

- 7.2.2 Western shall consult with the Commission so that the Commission's responsibilities under CEQA are satisfied through compliance with the Section 106 process.
- 7.3 Western is the lead Federal agency for the purposes of the Endangered Species Act (ESA; 16 U.S.C. 1531-1544). This means that Western has the primary responsibility, in accordance with Section 7 of ESA, to consult with the U.S. Fish and Wildlife Service (FWS), prepare the necessary Biological Assessment, make a timely application to the FWS for a Biological Opinion, and negotiate any mitigative measures between the FWS, the applicant, and the Commission staff. Western may be a joint author for the analysis sections on biological resources and water-related habitat resources and share responsibility for its content.
- 7.4 Western has primary responsibility to satisfy the requirements of DOE's regulations on floodplains and wetlands at 10 CFR 1022, pursuant to Executive Orders 11988 and 11990. Western shall consult and try to reach agreement with the Commission staff on any conditions or mitigation required for impacts to floodplains and/or wetlands.
- 7.5 Western shall provide a list of staff contacts for each subject/issue area, to be provided in Attachment A to this Agreement. This list of contacts should be utilized to the fullest extent in resolving questions, conflicts, or concerns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year first above written.

WESTERN AREA POWER ADMINISTRATION

By: Michael S. Hartung

CALIFORNIA ENERGY COMMISSION STAFF

By: _____

ATTACHMENT A

ENERGY COMMISSION STAFF ASSIGNMENTS FOR THE BLYTHE POWER PLANT AFC

Project Manager Lance Shaw
 Staff Counsel Lisa DeCarlo for data adequacy then Dick Ratliff
 Project Secretary Pat Owen

SUBJECT AREAS

1. Project Overview Lance Shaw
 2. Alternatives Lance Shaw
 3. Compliance Steve Munro
 4. Land Use Eric Knight
 5. Traffic & Transportation Jim Adams for data adequacy then an expert witness
 6. Visual Gary Walker
 7. Socioeconomics Amanda Stennick for data adequacy then a new staff
 person
 8. Public Health Mike Ringer
 9. Safety Chris Tooker for data adequacy then a new staff person
 10. Waste Management Mike Ringer
 11. Cultural Resources Kathy Matthews for data adequacy then an expert witness
 12. Air Quality Guido Franco
 13. Trans Line, Safety & Nuisance ... Obed Odoemelam
 14. Hazardous Materials Rick Tyler
 15. Biological Resources Dick Anderson
 16. Water & Soils Resources Richard Sapudar
 17. Noise Steve Baker
 18. Reliability Steve Baker
 19. Efficiency Steve Baker
 20. Geology/Paleontology Bob Anderson
 21. Transmission System Eval. Laiping Ng
 22. Facility Design Kisabuli

WESTERN AREA POWER ADMINISTRATION STAFF ASSIGNMENTS FOR THE
BLYTHE ENERGY PROJECT ENVIRONMENTAL ASSESSMENT PROCESS

Document/Environmental Assessment Manager Nicholas Chevance
 Project Manager/Engineering Teresita Amaro
 General Counsel Doug Harness
 Environmental Manager, Desert Southwest Region John Holt
 Environmental Specialist, Desert Southwest Region George Perkins
 Team Lead/Environmental Planning Group David Swanson
 Biologist/Endangered Species Consultation Specialist John Bridges
 Archeologist/Cultural Resources Specialist Mary Barger
 Environmental Specialist, Environmental Planning Group Cathy Cunningham

II. SCHEDULING ORDER

COMMITTEE SCHEDULE for BLYTHE ENERGY PROJECT	
EVENT	DATE
Blythe Energy AFC filed	December 9, 1999
Commission deems AFC data adequate	March 22, 2000
Staff Files Issue Identification Report and Data Requests	May 2
Informational Hearing & Site Visit	May 4
Staff workshop on data requests	May 4
Applicant files data responses	June 3
Status Report #1 due to Committee	June 5
Status Report #2 due to Committee	July 5
Applicant files data response on Western's interconnection study including Imperial Irrigation District and Southern California Edison impacts.	July 10
Applicant files Preliminary Determination of Compliance (PDOC) from the Mojave Air Quality Management District (MAQMD)	July 21
Status Report #3 due to Committee	August 7
Staff files Preliminary Staff Assessment (PSA)	September 1
Status Report #4 due to Committee	September 5
Applicant files MAQMD Final Determination of Compliance (FDOC)	September 22
Committee conducts Status Conference, if necessary	September 22
Status Report #5 due to Committee	October 5
Staff files Final Staff Assessment (FSA) as testimony	October 25
All other parties file testimony	November 6
Status Report #6 and Prehearing Conference Statements due	November 8
Committee conducts Prehearing Conference	mid November

III. INFORMATION

Members of the public may participate in all phases of the licensing process in a variety of ways. For information on public participation, contact Roberta Mendonca, the Public Adviser, at (916) 654-4489 or, toll free at (800) 822-6228 or, email:

<pao@energy.state.ca.us>