

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



DATE: October 10, 2002

TO: Interested Parties

FROM: Ila Lewis, Compliance Project Manager

SUBJECT: Public Review of Staff Analysis for Proposed Modifications to the Otay Mesa Generating Project (99-AFC-5C); Off-site Habitat Mitigation

On July 31, 2002, the California Energy Commission (Energy Commission) received a petition to amend the Energy Commission Decision for the Otay Mesa Generating Project (OMGP). OMGP is a nominal 510 MW combined cycle power plant currently under construction and located in Otay Mesa in the southwestern portion of San Diego County, California.

Description of Proposed Changes: The proposed modification will add a new approximately 2 mile long natural gas pipeline, Route 2C, replacing the licensed Route 2B and adding a 0.33 acre gas metering station. The new gas pipeline will minimize or avoid environmental and engineering issues associated with Route 2B and will be located between the plant site and gas supply interconnection points near the U.S./Mexico border. The petition also clarifies the routing of the natural gas pipeline within the 46 acre OMGP plant site. The gas metering station is to be constructed near the southern terminus of Route 2C. The metering station is required in order to meter and regulate gas to be supplied via the San Diego Gas & Electric Otay Metering Stations and gas supplied by the interconnection point with TGN facilities (which is the gas pipeline coming from Mexico) at the border. The petition also seeks to modify biological resources condition of certification BIO 10, changing the off-site habitat mitigation from 32.9 acres to 43.7 acres and impacts several sensitive species.

Energy Commission staff reviewed the proposed petition and assessed the impacts of this proposal on environmental quality, public health and safety. Staff proposes revisions to an existing condition of certification for biology (BIO-10) and notes the need for additional actions by the project owner under existing conditions of certification BIO-6 through 10. With this in place the project revision will comply with all applicable laws, ordinances, regulations, and standards. Based on the results of this analysis, Energy Commission staff intends to recommend approval of the petition at the November 6, 2002 Business Meeting of the Energy Commission.

If you have technical questions concerning the enclosed staff analysis, please contact Rick York at (916) 654-3945 or by email at ryork@energy.state.ca.us. If you have questions concerning the amendment process, please call me at (916) 654-4678 or by email at ilewis@energy.state.ca.us.

Enclosure

BIOLOGY STAFF ANALYSIS
Otay Mesa Generating Project (99-AFC-5)
Request to Amend Condition of Certification BIO-10 to Adjust the
Habitat Compensation Amount for the new Natural Gas Pipeline Route 2C

AMENDMENT REQUEST

Calpine, the project owner, has requested that Condition of Certification **BIO-10** for the Otay Mesa Generating Project (OMGP) be amended. The condition amendment is requested to address the need for additional habitat compensation that will be required to mitigate additional construction impacts associated with construction of a new natural gas pipeline route, Route 2C, and a new gas metering station.

BACKGROUND

Pacific Gas and Electric National Energy Group was issued a Commission Decision in April 2001 to build and operate a nominal 510-megawatt natural gas-fired power plant in the Otay Mesa area of San Diego County. The current project owner, Calpine, was planning to construct two new natural gas pipelines to supply fuel to the project. This amendment to the California Energy Commission License Decision proposes a new, approximately 2-mile natural gas pipeline (Route 2C) and a new 0.33-acre gas metering station near the U. S./Mexico border. Route 2C is intended to replace licensed Route 2B, and was developed by Calpine to minimize or avoid environmental and engineering issues associated with Route 2B.

LAWS, ORDINANCES, REGULATIONS, AND STANDARDS

With the action and change staff recommends related to conditions of certification, the project revision will comply with applicable federal, state, or local laws, ordinances, regulations, or standards.

ANALYSIS

Sensitive species

The current land uses for the proposed Route 2C route and the new gas metering station are open space and grazing. In this portion of San Diego County sensitive species are known to occur in the area. The sensitive species known to occur in the project area, and that may be impacted by the construction of the new gas line and gas metering station, are identified in the following table:

Listed Species

Quino checkerspot butterfly
Coastal California gnatcatcher
Otay tarplant

Federal/State Listing Status

Federal Endangered
Federal Threatened
Federal Threatened &
State Endangered

Habitat acreage impacts

Construction of the gas metering station will result in the permanent loss of 0.33 acres of non-native grassland. Construction of natural gas pipeline Route 2C will temporarily impact 3.17 acres of Diegan sage scrub and 12.5 acres of non-native grassland in quino checkerspot butterfly critical habitat, 1.47 acres of Diegan

coastal sage scrub in coastal California gnatcatcher habitat, and 1.11 acres of Diegan coastal sage scrub and 4.6 acres of non-native grassland in Otay tarplant critical habitat.

The majority of the proposed Route 2C route falls within a San Diego County Biological Resource Core Area (BRCA) designated by the county's Multiple Species Conservation Program (MSCP). A total of 8.08 acres of non-native grassland and 2.47 acres of coastal sage scrub is contained within a BRCA and will be temporarily impacted.

Mitigation measures

Impacts to the vegetation will be mitigated in two ways. First, areas temporarily disturbed will be restored according to the existing OMGP Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) Revegetation Plan. And second, acquisition of compensation habitat, and the establishment of a suitable endowment to fund perpetual management, will also mitigate temporary and permanent habitat impacts. The habitat acquisition will occur at an offsite location, approved by the U. S. Fish and Wildlife Service and the California Department of Fish and Game and consistent with MSCP habitat compensation ratios.

In addition to habitat compensation mitigation, species-specific mitigation will also be required. The project owner has suggested the following species-specific mitigation measures:

Quino checkerspot butterfly - To prevent direct impacts to adult quino checkerspot butterflies, construction activities within 150 feet of quino checkerspot butterfly habitat will take place between June 1st and February 15th, which is outside of the typical flight period of February through May. To prevent impacts to quino checkerspot habitat within the construction right-of-way, the contractor will bore under all quino checkerspot butterfly habitat locations. An environmental compliance monitor will monitor work when construction is within 100 feet of the quino checkerspot butterfly habitat locations. Impacts to 2.47 acres of coastal sage scrub vegetation within quino checkerspot butterfly proposed critical habitat and a BRCA will be mitigated at 1.5:1 compensation ratio (2.47 acres x 1.5 = 3.71 acres). Impacts to 0.70 acres of coastal sage scrub vegetation in quino checkerspot butterfly proposed critical habitat, but not in the BRCA, will be mitigated at a 1:1 compensation ratio (0.7 acres x 1.0 = 0.70 acres), while impacts to 12.83 acres of non-native grassland will be mitigated at 0.5:1 compensation ratio (12.83 acres x 0.5 = 6.42 acres). The total compensation acreage required is 10.8 acres (3.71 acres + 0.70 acres + 6.42 acres).

The project owner has indicated that if it is not possible to obtain 10.8 acres of compensation habitat that is both the proper vegetation type to meet MSCP criteria and located in quino checkerspot butterfly critical habitat, the 10.8 acres of quino checkerspot butterfly habitat, 4.4 acres of MSCP Tier II habitat (for coastal sage scrub), and 3.7 acres of Tier III habitat (for non-native grassland), a total of 8.1 acres, will be acquired. The reduced acreage (10.8 acres – 8.1 acres = 2.7 acres) of Tier III land accounts for the fact that the project owner has already acquired 2.7 acres of Tier III compensation habitat for the Commission-licensed Route 2B.

Coastal California gnatcatcher – To avoid impacting nesting coastal California gnatcatchers, pipeline construction will take place between August 16th and February 28th, which is outside of the coastal California gnatcatcher breeding season of March 1st to August 15th. Impacts to 1.47 acres of coastal sage scrub vegetation within coastal California gnatcatcher critical habitat will be mitigated by acquiring habitat credits consistent with MSCP requirements. Revegetation of the habitat disturbed during pipeline construction will restore the habitat and result in no net loss of habitat.

Otay tarplant – To avoid direct impacts to the Otay tarplant the project owner will bore underneath areas of known occurrences of the Otay tarplant as well as areas that are classified as high and moderate potential habitat. An environmental compliance monitor will be on site during project construction within 100 feet of the known Otay tarplant occurrences to prevent accidental impacts. Impacts to 1.1 acres of coastal sage scrub vegetation and 4.6 acres of non-native grasslands within Otay tarplant critical habitat will be mitigated by acquiring habitat credits consistent with the MSCP requirements. In addition, areas that will be temporarily impacted will be revegetated following completion of project construction.

Total Habitat Compensation

The project owner has already purchased a total of 35.9 acres of habitat compensation at the San Miguel Conservation Bank to mitigate the original licensed project. This total is 3.0 acres more (35.9 acres – 32.9 acres = 3.0 acres) of Tier II than was required in the original Commission Decision per Condition of Certification **BIO-10**. The extra 3.0 acres are to be used as a contingency if there is unexpected habitat disturbances. The Commission Decision currently requires the purchase of at least 32.9 acres, and with the addition of 10.8 acres of compensation required for Route 2C, the new minimum habitat compensation amount is 43.7 acres.

CONCLUSIONS

Staff concludes that construction of the new Route 2C gas pipeline and the new gas metering station will not cause significant unmitigated biological resource impacts to state and federally listed species and their habitat.

Staff also identifies that the project owner needs to acquire a variety of amended state and federal permits prior to the start of construction. The project owner must complete an amended Biological Assessment (BA) and provide it to the U. S. Fish and Wildlife Service (USFWS) as part of the Endangered Species Act Section 7 process. Once the revised BA is deemed data adequate by the USFWS, the USFWS will provide an amended Biological Opinion (BO). Once the BO is provided to the project owner, the California Department of Fish and Game (CDFG) will review the amended BO and may decide to provide an amended CDFG Consistency Determination within 30 days. In addition, CDFG has also indicated that an amended Streambed Alteration Agreement will also need to be acquired prior to beginning any project construction. As these documents are acquired by the project owner, the project owner must make any necessary changes to the OMGP Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) and provide the revised BRMIMP (per Condition of Certification **BIO-9**)

to the Commission Compliance Project Manager (CPM) for review and approval. In addition, the amended Biological Opinion (per Condition of Certification **BIO-6**), Consistency Determination (per Condition of Certification **BIO-7**), and Streambed Alteration Agreement (per Condition of Certification **BIO-8**), must also be provided the CPM for review and approval. None of these Conditions of Certification require any amendments, however the requested amendment does require that a change be made to Condition of Certification **BIO-10**. Staff recommends approval of the petition with the following changes to Condition of Certification **BIO-10** for the Otay Mesa Generating Project. The proposed modification retains the intent of the original Commission Decision and Conditions of Certification.

Proposed Modifications to Condition of Certification BIO-10

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BIO-10 To compensate for temporary and permanent impacts to sensitive species habitat, the project owner shall implement a habitat compensation strategy that guarantees the perpetual care of at least ~~32.943.7~~ 43.7 acres of off-site habitat in the region of the proposed project.

Verification: At least 30 days prior to the start of any project-related ground disturbance activities the project owner will provide written verification to the Compliance Project Manager (CPM) that all habitat compensation purchases have been completed. At the same time, written verification must also be provided showing that the associated endowment and any other associated costs related to the habitat compensation have also been provided.

Within 90 days after completion of project construction, the project owner shall provide the CPM aerial photographs taken after construction and an analysis of the amount of any additional habitat compensation disturbance than that identified in this staff assessment. The CPM will notify the project owner of any additional funds required to compensate for any additional habitat disturbance at the adjusted market value at the time of construction to acquire and manage habitat.