

**OTAY MESA ENERGY CENTER**  
**Energy Commission Staff Assessment**  
**Request to Amend Condition of Certification AQ-75**

**AMENDMENT REQUEST**

The Calpine Corporation (Calpine) is requesting a change to Condition of Certification AQ-75 which would allow a \$1.2 million particulate matter (PM10) mitigation fee to be paid to the San Diego Air Pollution Control District (District) later than currently required (October 31, 2003). Calpine proposes to make the payment no later than 14 months prior to "first fire" of either combustion turbine, or October 31, 2006, whichever is first. The amount due would be escalated at a rate based on the Consumer Price Index from October 31, 2003 to when the payment is made.

**BACKGROUND**

Calpine is required under Condition of Certification AQ-75 to provide \$1.2 million to the District as a mitigation fee for PM10 and PM10 precursor impacts. The first half of the payment was originally due in July 2002, with the remainder due January 2003. In April 2003, staff agreed with Calpine's request to postpone the payment until October 31, 2003 due to delays in the construction schedule, and modified the verification to reflect the new payment date. Because of continuing uncertainty in the construction schedule and negotiations regarding electricity contracts, Calpine requested an additional postponement of payment until both turbines were mounted on their pedestals or no later than June 1, 2006. On March 5, 2004, the Commission staff denied their request and directed Calpine to pay the \$1.2 million or submit a petition to change Condition AQ-75. On April 1, 2004 Calpine submitted a petition for a minor modification to the verification to Condition AQ-75. On April 26, the Commission staff responded by requesting Calpine to submit a petition to change the language in Condition AQ-75 in order to recommend approval of a second delay of payment. Calpine's current request (June 2004) responds to that direction by the Commission staff.

**LAWS, ORDINANCES, REGULATIONS AND STANDARDS**

No laws, ordinances, regulations or standards will affect the amendment request.

**ANALYSIS**

The mitigation payment to be made to the District would be allocated to programs such as the Lower-Emission School Bus Retrofit Program, the Carl Moyer Program, or other programs designed to reduce PM10 and precursor emissions within the District. Although the payment would be made later than originally anticipated, it would be escalated from October 31, 2003 at a rate equal to the Consumer Price Index, so that its purchasing power would remain the same relative to the current due date of October 31, 2003. Therefore, staff anticipates that there would be no change in the amount of actual emissions mitigation which would be achieved through the later payment to the District and no changes to project impacts from those evaluated in the Final Staff Assessment.

## CONCLUSIONS AND RECOMMENDATIONS

Staff has analyzed the proposed changes and concludes that there will be no new or additional significant impacts associated with approval of the petition. Staff concludes that the proposed changes are based on information that was not available during the original licensing proceeding. Staff concludes that the proposed language retains the intent of the original Commission Decision and Condition of Certification.

### PROPOSED CHANGES TO CONDITION OF CERTIFICATION AQ-75

Proposed deletions are shown in ~~strike through~~ and additions are shown in underline.

**AQ-75** The owner/operator shall provide ~~\$1.2 million~~, as a mitigation fee, for potential PM10 and PM10 precursor impacts, to the District APCO to provide PM10 and PM10 precursor reductions throughout the District. The amount of the fee shall equal \$1.2 million escalated at a rate equal to the Consumer Price Index from October 31, 2003 until the payment is made. The payment shall be made no later than 14 months prior to "first fire" of either turbine, or October 31, 2006, whichever is first. The fees shall be provided to the District, who with guidance from CARB or the CEC, will allocate the funds to programs such as the Lower-Emission School Bus Retrofit Program, the Carl Moyer program, or some other program designed to reduce PM10 and PM10 precursor emission in the District.

The District shall preferentially make available the mitigation fee funds to the Sweetwater Union High, the San Ysidro Elementary, the South Bay Elementary, or the Chula Vista Elementary Districts for school bus retrofits. The preference shall be in the form of a first right of refusal given to the above districts for no more than 2 years from the date of the ~~first~~ fee payment by the project owner. Any mitigation fee funds not used by the above school districts or available after 2 years from the date of the ~~first~~ fee payment by the project owner shall be made available for other program-appropriate emission reductions through the District's program.

Verification: The project owner/operator shall provide the funds to the District APCO in one payment of \$1.2 million by October 31, 2003. Copies of the payment shall be provided to the CEC CPM. No later than 20 days after delivery of the deposit mitigation payment to the District, the project owner/operator shall provide to the CEC CPM a letter (or copy thereof) from the District APCO indicating receipt of the payment.