



FPL Energy

October 1, 2001

Chair, Council on Environmental Quality
 Executive Office of the President
 17th and G Streets, NW
 Washington, DC 20503

Attention: Task Force

In response to the August 20, 2001 Federal Register Notice of the Energy Task Force, FPL Energy (FPLE) is pleased to submit comments offering suggestions on opportunities to improve agency decision-making in order to expedite the approval process of energy projects. FPLE is also enclosing specific information on current or proposed electricity generating projects for which we are now seeking agency approval. FPLE is a wholly owned subsidiary of FPL Group that currently owns and operates over 4,100 megawatts of electric generation in 14 states. FPL Group's largest subsidiary is Florida Power and Light Company, the largest regulated electric utility in the State of Florida with over 17,000 megawatts of electric generation. In the next five years FPLE plans to expand its portfolio by more than 10,000 megawatts. The Company's current generation fuel mix includes:

<u>Fuel Type</u>	<u>% net MW generation</u>
Wind	15
Geothermal, solar, biomass and coal	6
Natural Gas	52
Oil	18
Hydro	9

FPLE's future growth plan includes a significant addition of natural gas-fired combined cycle and simple cycle generating units throughout various markets in the U.S.

As the electric generating industry becomes more competitive and the need for additional efficient generation grows in the U.S., the need to rapidly complete generating projects becomes even more important than in recent history. Furthermore, in some markets, such as California and New York, the need for power has reached a critical stage where the timely completion of future projects is necessary to maintain reliable electric generation.

In light of these discussion points FPLE offers the following suggestions for expediting electric generating projects.

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Develop an emissions threshold for expedited approval of generation projects that meet certain air emissions criteria:

Under the Task Force's responsibility, to assist [regulatory] agencies in their efforts to expedite review of permits, FPLE suggests that the Task Force work with the member agencies to adopt a Memorandum of Understanding or similar guidelines that establishes a set of emissions criteria that the Task Force would agree constitutes a "Clean Emissions Project". To the extent that it is allowable under existing law, if a project commits to the Clean Emissions Project criteria it would bypass further agency review and receive the necessary approvals for a construction air permit.

One example of how this process might work is in the area of Prevention of Significant Deterioration (PSD) review. Commonly when a project is reviewed and approved under a state licensing process the Project must allow at least thirty days for a PSD Review from the EPA. In many cases, due to a backlog of projects, EPA takes this full 30 days for review and then approves the project. In the example of the Clean Emissions Project the state approval could be the last stop before construction could begin. If the State also adopted the concept of expedited approval for Clean Emissions Projects the process could be shortened even more.

Another area where projects are often held up for additional information or review is the determination of Best Available Control Technology (BACT) and Lowest Achievable Emissions Rate (LAER). For example, consider a project that utilizes a General Electric 7FA Combustion Turbine. This turbine comes equipped with dry low NOx burners and can achieve a nitrogen oxides emissions rate of 9.0 PPM. In this example further analysis indicates that this rate will not significantly impact the area's ability to meet ambient air quality standards. However, in certain parts of the country this facility will be required to conduct further BACT analysis. In this further analysis EPA or the state typically will want the facility to evaluate the ability to achieve a 5.0, 3.5 or 2.0 PPM NOx emission rate. FPLE suggests that the additional NOx reduction is unnecessary if the facility has already shown it is below ambient air quality significant thresholds and will not significantly deteriorate the maintenance of the ambient air quality standard. Furthermore, the additional reduction of NOx below the 9.0 PPM requires the installation of expensive pollution control equipment that reduces unit efficiency and adds significantly to the operation and maintenance cost of the facility with no measurable benefit to ambient air quality.

Technological advances in the efficiency of combustion turbines, heat recovery units and emissions control systems have resulted in projects with greater generating efficiencies and lower average emission rates per megawatt-hour than projects historically built in the U.S. However, each project must continue to submit reams of monitoring data, and in some areas must monitor ambient air quality for up to a year to gather this data. Following this step of monitoring and modeling, projects must submit applications to

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state agencies generally following the prescription of the EPA for the approval of a project. The time to receive approvals from the state and sometimes the EPA may take several months to two years.

Given the technological advances of clean and efficient combined cycle generation facilities in the industry today, FPL submits that projects with applications that commit up front to minimum emissions criteria should be approved without delay, bypassing lengthy review. This change in procedure would allow these Clean Emissions Projects to enter the competitive generation market at lower cost and more rapidly respond to market needs. Finally, these more efficient units may eventually displace older, dirtier generation resulting in cleaner air emissions nationally.

Establish an expedited approval for the use of once through cooling water if certain controls or withdrawal criteria are in place to prevent adverse environmental impact.

Currently EPA is proceeding with the development of revisions to the cooling water intake rules, Section 316 b of the Clean Water Act. This proposed rule will regulate the withdrawal of cooling water for use by new power plants from Waters of the U.S. In many instances the use of water from surface water bodies is integral to the operation of electric generating facilities. In recent history new and existing facilities have been subjected to lengthy monitoring requirements, sometimes up to a year. This monitoring is intended to evaluate the potential impact of a project's surface water withdrawals. EPA's proposed new facilities rule will require more stringent requirements on the development of these facilities and add significant burden to the licensing effort by requiring these lengthy monitoring periods before project approval; and will add post operational monitoring to the project.

FPLE supports the efforts of the Utility Water Activities Group (UWAG) to develop a Fast Track Option using overly protective technologies (technologies that will in all cases prevent "adverse environmental impact" (AEI), and normally exceed "best technology available" (BTA) (i.e., that technology needed to minimize AEI)). The fast track option provides overly protective criteria or technologies that will eliminate the risk of AEI for both entrainment and impingement.

FPLE believes that support for the Fast Track Option of expediting project approvals falls within the scope of the Task Force and we request your intervention in reviewing the use of a Fast Track Option for achieving the approvals of new projects utilizing Waters of the U.S. for cooling.

We propose two approaches to the Fast Track Option where the Applicant would receive expedited permitting by committing to:

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Option 1:

- Any technology that limits intake flow to the flow that would be required by wet closed-cycle cooling at the site and that has an average approach velocity (measured in front of the intake screens or the opening to the cooling water intake structure) of no more than 0.5 ft/sec.

OR

Option 2:

- Any technology that will achieve a level of protection from impingement and/or entrainment that is reasonably consistent with that attained under the first option. This option is intended to permit facilities to use either standard technologies, or new ones, that have been demonstrated to be effective for the species, type of waterbody, and flow volume proposed for their use. Examples of candidate technologies include:
 - a. Wedgewire screens where there is constant flow, such as in rivers (EPA is conducting a technical evaluation of this technology);
 - b. Gunderbooms in circumstances where they would not be subject to damage by high flows or high fouling;
 - c. Traveling fine mesh screens with a fish return system.

Facilitate the coordination of reviews and comments from various agencies to ensure that permitting issues are identified in a timely manner.

It is this the area where the Task Force may provide the greatest value to energy projects throughout the U.S. Too often projects are caught up in the red tape of waiting on reviews from various agencies. In some cases certain agencies will not sign off on a project unless they have received the review of another agency. FPLE has found this coordination of reviews and comments between agencies particularly laborious in the area of wetlands delineation where Section 404 issues are present. These projects typically require approvals from the State, Corp of Engineers (COE) and in some cases a county or regional district office. For example the COE approval of a project is contingent on the review of the U.S. Fish and Wildlife Service and EPA. FPLE suggests that the Task Force serve as a facilitator to these various agencies and where possible coordinate the development of their reviews and comments concurrently and in a timely fashion. In the past, last minute reviews and comments that raise issues not previously disclosed by the agencies have cost tens of thousands of dollars in construction delay penalties and potentially millions of dollars in lost revenue.

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Another area where the coordination efforts of the Task Force may provide significant improvement to the approval process is in the permitting and licensing of linear facilities, such as pipelines and transmission lines. Since these facilities often cross several jurisdictional boundaries, particularly as they pertain to wetlands, Waters of the U.S. and real estate transactions, the coordination of agency review and comment could be extremely helpful. FPLE suggests that the Task Force establish a linear facilities workgroup to identify stumbling blocks and methods of coordinating the approval of linear facilities. Such a workgroup could be comprised of agency, industry and public representatives who could recommend guidelines or rules to improve the approval process.

FPLE Development Projects

Finally, you will find attached the descriptions of two energy development projects in California that FPLE is currently pursuing permitting and construction approval for. The project descriptions are provided in accordance with the information requested in the August 20 Federal Register Notice. The two projects included are FPLE's Rio Linda Project and the Tesla Project.

The proposed Rio Linda/Elverta Power Project (Rio Linda) consists of a natural gas-fired combined cycle power plant and associated linear facilities. The project will have a nominal electrical output of 560 MW with commercial operation planned for early 2004. The project will be fueled with natural gas that will be delivered to the power plant site via a new 16 to 20-inch 20.1-mile pipeline that will be owned and operated by the Pacific Gas and Electric Company (PG&E). The plant will supply power to the Western Area Power Administration (Western) transmission grid, connecting at Western's existing Elverta substation approximately 3,000 feet north of the plant. Water for the project will be provided by the Rio Linda/Elverta Community Water District (RLECWD). Wastewater will be processed by a zero liquid discharge system. The project will require upgrading a 3.4 mile section of the Hedge-Proctor transmission line southeast of the City of Sacramento.

Rio Linda provides a clear example of the need for timely review and coordination between federal and state agencies. The project application to the California Energy Commission (CEC) has been suspended due to a lack of timely resolution of emissions reduction credit issues between EPA, the local air district, and the applicant. During the last year, both the applicant and the local air district requested comments from EPA on quantification of emission reduction credits derived from reducing agricultural burning. Neither the applicant nor the local air district has received clear direction from EPA on this matter. In fact, it is apparent that there is no procedural mechanism to resolve inconsistencies in emissions reduction credit protocols between the various agencies, creating a "moving target" for applicants trying to obtain sufficient credits for their projects. FPLE requests that such a mechanism be developed and that a timely response and reasonable justification from EPA be required on these matters.

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For example, in order for the Rio Linda application to the CEC to be reinstated, a Preliminary Determination of Compliance (PDOC) is required from the Sacramento air district. While the air district accepts the agricultural burn credits and has protocols for quantification, EPA has not commented on these credits and does not appear to have established protocols. This puts the application process into regulatory stall. Without a PDOC and comments from EPA, the CEC could not issue its preliminary staff decision in August as expected. This cost FPLE valuable time and limited our ability to respond regional power demands.

Additional concerns for the Rio Linda schedule include Western's ability to conduct the necessary parallel environmental review and execute the construction schedule needed for interconnection. This concern is based on comments by Western with regard to availability of staff.

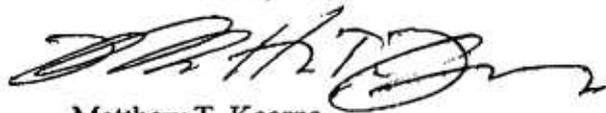
The Tesla Project proposed by Midway Power LLC, is seeking approval from the California Energy Commission (CEC). The proposed project will be fueled with natural gas provided by Pacific Gas & Electric (PG&E) and will have a nominal electrical output of 1,120 MW. The in-service date is planned for late 2004. The plant will generate and supply power to the PG&E Tesla substation via a new 0.5 mile transmission line. The project facilities will consist of a natural gas-fired combined cycle power plant and associated linear facilities. The project will employ advanced combustion turbine technology and state of the art emissions control systems to provide a highly efficient and environmentally sound source of electricity for California's restructured electricity market. FPLE suggests that the federal and state permitting coordination issues identified in the Rio Linda project also apply to the Tesla Project.

Additional information and a list of agencies that are involved in the permitting of these projects is attached. To the extent it is possible FPLE respectfully requests that the Task Force evaluate these projects, and where reasonable, assist in the coordination of agency reviews and comments to expedite approval and construction of these new energy projects.

If you have any questions or require additional information please contact me at 561-691-7067.

Sincerely,

FPL ENERGY, LLC



Matthew T. Kearns

Senior Environmental Specialist

attachments

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PROJECT AND PERMITS DESCRIPTION

1. Name of the project: Tesla Power Project
2. Entity proposing the project: Midway Power, LLC
3. Category of the project: Electricity generation (natural gas-fired)
4. Brief description of the project:

Midway Power LLC, the applicant, is seeking approval from the California Energy Commission (CEC) to construct and operate the Tesla Power Project (TPP). The proposed project will be fueled with natural gas provided by Pacific Gas & Electric (PG&E) and will have a nominal electrical output of 1,120 MW. The in-service date is planned for late 2004. The plant will generate and supply power to the PG&E Tesla substation via a new 0.5 mile transmission line. The project facilities will consist of a natural gas-fired combined cycle power plant and associated linear facilities. The project will employ advanced combustion turbine technology and state of the art emissions control systems to provide a highly efficient and environmentally sound source of electricity for California's restructured electricity market.

5. Agency or agencies that must be consulted and agencies from which approval is needed:

FEDERAL

<u>Type</u>	<u>Permit/Approval</u>
Biological Resources	Clean Water Act Section 404, Nationwide 12 permit, Utility Line Discharge
Biological Resources	US Fish and Wildlife Service Biological Opinion/ Incidental Take Permit
Waste Management	US EPA ID No. and Hazardous Waste Generator registration

STATE

<u>Type</u>	<u>Permit/Approval</u>
Air Quality	Bay Area Air Quality Management District (BAAQMD) must ensure compliance with US Environmental Protection Agency (US EPA) National Ambient Air Quality Standards.
Air Quality	BAAQMD Prevention of Significant Deterioration
Air Quality	BAAQMD Title IV Acid Rain Permit
Air Quality	BAAQMD Title V Operating Permit for major sources
Air Quality	California Energy Commission (CEC) Power plant-siting requirements.
Air Quality	BAAQMD Authority to Construct Permit (ATC) & Permit to Operate (PTO)

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Air Quality	BAAQMD must ensure compliance with Federal New Source Performance Standards (NSPS).
Air Quality	BAAQMD Air Toxic Hot Spots Emissions Inventory
Air Quality standards.	BAAQMD ensures compliance with public health
Air Quality	BAAQMD New Source Review
Air Quality	BAAQMD requires use of effective combustion practices.
Air Quality	BAAQMD requires no release of odorous substances.
Air Quality	BAAQMD limits the emission of organic compounds.
Air Quality	No permits are required, but Compliance must be met.
Air Quality	BAAQMD requires compliance on ground-level SO ₂ .
Air Quality	BAAQMD requires compliance on NO _x and CO emissions limits.
Biological Resources	California Regional Water Quality Control Board (RWQCB) Clean Water Act Section 401, Water Quality Certification
Biological Resources	California Department of Fish and Game (CDFG) Section 1603 Streambed Alteration Agreement
Waste Management	RWQCB National Pollution Discharge Elimination System (NPDES) Permit for Construction Activities
Agriculture and Soils	RWQCB NPDES General Permit for Storm Water Discharges Associated with Construction Activities.
Waste Management	RWQCB NPDES Permit for Industrial Activities.
Traffic & Transportation	California Department of Transportation (Caltrans) Overload Limit Permit(s).
Worker Safety	California Occupational Safety and Health Administration CAL OSHA Scaffolding Permit
Worker Safety	CAL OSHA Construction Permit.
Worker Safety	CAL OSHA Pressure Vessel Permit.
Worker Safety	CAL OSHA Trenching and Excavation Permit.
Worker Safety	CAL OSHA Permit-to-Erect Fixed Tower Crane.
Worker Safety	CAL OSHA Construction Field Safety Plan and Injury and Illness Prevention Plan.
Worker Safety	CAL OSHA Construction Fire Protection and Prevention Plan.
Worker Safety	CAL OSHA Operational Field Safety Plan and Injury and Illness Prevention Plan.
Worker Safety	CAL OSHA Personal Protection Equipment Plan. Worker Safety CAL OSHA Operational Fire Protection and Prevention Plan.
Public Health	California Air Resources Board (CARB) Toxic Air Contaminant Inventory and Toxic Release Inventory
Public Health	California Department of Toxic Substances Control (DTSC) public notifications

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Public Health

BAAQMD public notifications on hexavalent chromium in cooling towers

TRIBAL

<u>Type</u>	<u>Permit/Approval</u>
Cultural Resources	Applicable Cultural Resources Laws Ordinances Regulations and Standards (LORS) must be met.

LOCAL

<u>Type</u>	<u>Permit/Approval</u>
Noise	Noise level ordinance compliance must be met.

OTHER

<u>Type</u>	<u>Permit/Approval</u>
Water Resources	Alameda County Grading/ Erosion Control Permit.
Water Resources	Alameda County Central Valley Regional Water Quality Control Board (CVRWQCB) Plumbing Permit for Septic Tank and Leachfields
Water Resources	CVRWQCB NPDES General Permit for Storm Water Discharges Associated with Construction Activities.
Water Resources	CVRWQCB NPDES General Permit for Storm Water Discharges Associated with Industrial Activities.
Geologic Resources	Alameda County Planning Department Grading Permit
Geologic Resources	Alameda County Planning Department Building Permit
Agriculture and Soils	Alameda County Planning Department Grading/ Erosion Control Permit
Hazardous Materials	Alameda County Environmental Health Department Accidental Release Prevention Program (Risk Management Plan)
Hazardous Materials	Alameda County Environmental Health Department Hazardous Materials Inventory & Emergency Business Plan
Hazardous Materials	Alameda County Environmental Health Department Tiered Treatment Permit
Hazardous Materials	Alameda County Environmental Health Department Consolidated Hazardous Materials Permit
Waste Management	RWQCB Hazardous Materials Inventory and Emergency Business Plan
Traffic & Transportation	Alameda County Technical Services Division Traffic Control Plan
Land Use	Alameda County Community Development Agency Site Development and Review

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Land Use Alameda and San Joaquin County Encroachment Permit(s)
 for Water Supply and Natural Gas Pipeline
 Public Health California Office of Emergency Services (OES) and
 Alameda County Department of Environmental
 Management Risk Management Plan.

1. Name of the project: Rio Linda/Elverta Power Project
2. Entity proposing the project: FPL Energy, LLC
3. Category of the project: Electricity generation (natural gas-fired)
4. Brief description of the project:

The proposed Rio Linda/Elverta Power Project (RLEPP) consists of a natural gas-fired combined cycle power plant and associated linear facilities. The project will have a nominal electrical output of 560 MW with commercial operation planned for 2004. The project will be fueled with natural gas that will be delivered to the power plant site via a new 16 to 20-inch 20.1-mile pipeline that will be owned and operated by the Pacific Gas and Electric Company (PG&E). The plant will supply power to the Western Area Power Administration (Western) transmission grid, connecting at Western's existing Elverta substation approximately 3,000 feet north of the plant. Water for the project will be provided by the Rio Linda/Elverta Community Water District (RLECWD). Wastewater will be processed by a zero liquid discharge system. The project will require upgrading a 3.4 mile section of the Hedge-Proctor transmission line southeast of the City of Sacramento.

5. Agency or agencies that must be consulted and agencies from which approval is needed:

FEDERAL

<u>Type</u>	<u>Permit/Approval</u>
Air Quality	US Environmental Protection Agency (US EPA), Prevention of Significant Deterioration Permit
Air Quality	US EPA Title IV acid Rain Permit
Air Quality	US EPA Title V Operating Permit
Biological Resources Assessment	US Fish and Wildlife Service (USFWS) Biological
Biological Resources	USFWS Federal Section 10(a)
Water Resources	US EPA National Pollution Discharge Elimination System (NPDES) Discharge permit
Water Resources	US EPA NPDES Storm Water Permit for Construction
Water Resources	US EPA NPDES Storm Water Permit for Operation
Water Resources	US Army Corps of Engineers Section 404 Permit

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Waste Management	US EPA ID No. and Register as a Hazardous Waste Generator
Traffic & Transportation	Federal Aviation Administration Determination for Stacks
Traffic & Transportation	Western Area Power Authority Easement (For Projects main access road)

STATE

<u>Type</u>	<u>Permit/Approval</u>
Siting	California Energy Commission Application for Certification (AFC)
Air Quality	Determination of Compliance/ Authority to Construct Permit
Biological Resources	CA Department of Fish and Game 2081 (Requirement for consultation and take permit, if needed)
Water Resources	CA Regional Water Quality Control Board Wastewater Discharge Permit
Water Resources	CA Dept. of Fish & Game Streambed Alteration Agreement
Water Resources	Sacramento County Grading Plan
Water Resources	Sacramento County Permit to Drill
Waste Management	Sacramento County Plumbing Permit for Septic Tank and Leachfield
Waste Management	Sacramento Certified United Permitting Agencies (CUPA) Hazardous Materials Business Plan & Emergency Response Plan
Waste Management	CUPA California Accidental Release Prevention Program (Risk Management Plan)
Waste Management	CUPA Tiered Treatment Permit
Traffic & Transportation	California Department of Transportation (Caltrans) Boring Permit
Traffic & Transportation	Caltrans Encroachment Permit (state roads)
Traffic & Transportation	Caltrans Class C Permit
Land Use	CA Department of Water Resources (DWR) Encroachment Permit for Transmission Line
Worker Safety	Trenching and Excavation Permit
Worker Safety	Permit-to-Erect Fixed Tower Crane
Worker Safety	Field Safety Plan and Injury and Illness Prevention Plan
Worker Safety	Fire Protection and Prevention Plan
Worker Safety	Field Safety Plan and Injury and Illness Prevention Plan
Worker Safety	Personal Protection Plan
Worker Safety	Fire Protection and Prevention Plan
Cultural Resources	State Historic Preservation Office Cultural Resources Clearance

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TRIBAL

Not Applicable

LOCAL

Type	Permit/Approval
Worker Safety	Fire Department Emergency Action Plan

OTHER

Type	Permit/Approval
Building & Zoning	Sacramento County Zoning Approval (Conditional Use Permit for power plant)
Building & Zoning	Sacramento County Building Permits
Building & Zoning	Sacramento County Permit for temporary construction facilities
Building & Zoning	Sacramento County Permit for temporary power
Traffic & Transportation	Sacramento County Encroachment Permit (county roads)
Traffic & Transportation	Sacramento County Encroachment Permit for the Electric Transmission Line
Land Use	Sacramento County Encroachment Permit for Water Supply Pipeline