Department of Toxic Substances Control

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SENT VIA ELECTRONIC MAIL

May 28, 2024

Cindy Jancinth
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City of Morro Bay
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RE: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE MORRO BAY BATTERY ENERGY STORAGE SYSTEM PROJECT, DATED MARCH 11 2024, STATE CLEARINGHOUSE NUMBER 2022060083

Dear Cindy Jancinth,

The Department of Toxic Substances Control (DTSC) received a Draft Environmental Impact Report (DEIR) for the Morro Bay Battery Energy Storage System Project. The proposed project encompasses approximately 43 acres of the 107-acre Morro Bay Power Plant property (Assessor's Parcel Number [APN] 066-331-046; 1290 Embarcadero Road) and includes three components: (1) construction and operation of a 600-MW Battery Energy Storage System Facility (BESS Facility), (2) demolition and removal of the existing Morro Bay Power Plant building and stacks, backfill and restoration of the site and (3) adoption of a Master Plan. The BESS Facility would be constructed on a 21-acre portion of the Project Site and would consist of three two-story buildings with a total building area of 91,000 sq ft. Infrastructure to support the BESS

Facility would include power conversion systems, substations, and tie-ins to the existing Pacific Gas and Electric substation adjacent to the Project site. The DEIR outlines the project location, existing site characteristics, current land uses, surrounding properties, and project details. Figure 2-5 in the DEIR depicts the BESS facility location, showing that most of Area of Concern (AOC) 1 and 20.5 acres of the 24-acre BESS site are under a Land Use Covenant (LUC), recorded on July 21, 2022.

Morro Bay Power Plant Site Remediation Background

The site has a history of power generation activities, including hazardous waste storage. Operations began in 1955 under Pacific Gas and Electric (PG&E). In 1998, PG&E transferred ownership to Duke Energy. LS Power purchased the Morro Bay Power Plant (MBPP) in 2006 and subsequently merged with Dynegy in 2007. The facility was renamed Dynegy Morro Bay, LLC, and later, in November 2020, to Morro Bay Power Company, LLC (MBPC). Power generation ceased in 2014, and the plant was shut down.

Under Health and Safety Code Section 25187, DTSC entered into a Corrective Action Consent Agreement (CACA) with PG&E in October 2006 (Docket HWCA: P1-06/07-001). PG&E (the original owner) conducted environmental investigations and remediation according to the CACA and the Resource Conservation and Recovery Act (RCRA) corrective action process at identified AOCs. Soil and groundwater quality data were used to assess human health and ecological risks. On April 26, 2021, DTSC determined that soil at AOCs 2 through 4 and 6 met the criteria for Corrective Action Complete. On October 24, 2022, DTSC also determined that groundwater at AOCs 1 through 6, soil at a portion of AOC 1, and soil at a portion of AOC 5 met the criteria for Corrective Action Complete without Controls. Additionally, soil at a portion of AOC 1 met the criteria for Corrective Action Complete with Controls, requiring a Land Use Covenant and Soil Management Plan. Further evaluation is needed for AOC 7 and part of AOC 5. PG&E retains environmental liability for AOCs 5 and 7 until further investigation is possible.

After reviewing the DEIR, DTSC has the following comments:

1. Land Use Covenant (LUC) on AOC 1:
   In DEIR Chapter 2.4.1, “DTSC Land Use Restriction,” it should be noted that the correct term is Land Use Covenant (LUC), not Limited Use Covenant. This correction applies to Figure 2-4 as well.
2. Soil Management Plan for the Former Tank Farm:
   In the Article IV, Section 4.2 (a) of the LUC states, “No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling) shall be allowed at the Restricted Property without a Soil Management Plan pre-approved by the Department in writing.” During BESS construction, measures must be taken to minimize exposure to contaminated soil and manage excavated soil per the Soil Management Plan for the Former Tank Farm Area (approved by DTSC on May 11, 2021). This includes dust control, stormwater pollution prevention, management and storage of excavated soil, soil characterization and profiling, on-site use, transportation, and disposal. A project-specific Health and Safety Plan (HASP) should be prepared, and construction workers must have appropriate training and qualifications (e.g., OSHA Hazardous Waste Operations and Emergency Response training, if necessary).
3. Current Status of AOCs:
   Table 4.7-1 in the DEIR shows the current status of AOCs. While DTSC determined No Further Action for AOC 3 in 2021, the presence of Firehouse No. 1 on AOC 3 raises concerns about potential per- and polyfluoroalkyl substance (PFAS) release. DTSC is seeking historical records detailing the use of PFAS-containing foams or other PFAS-related agents at Firehouse No. 1, any existing PFAS data, and an evaluation of the potential risk of PFAS release into the environment. Further investigation and remediation measures may be necessary to address potential PFAS contamination in soil and groundwater within AOC 3 and its vicinity.
4. Potential Environmental Damage from Accidents:

Section 6.2.2 states, “Implementation of the proposed project would not involve uniquely hazardous uses, and its operation would not be expected to cause environmental accidents that would affect other areas.” However, each building would house approximately 2,400 racks containing lithium-ion batteries, with a storage capacity of 200 MW each, for a total of 600 MW. These batteries contain potentially hazardous materials such as Lithium Cobalt Oxide ($LiCoO_2$), electrolyte solutions, graphite, and heavy metals. An emergency plan must be prepared to manage and prevent hazardous material spills, generated and releases from accidents to the soil and groundwater, such as explosions and fires. The plan should include proper handling, storage, and disposal of damaged batteries to minimize environmental impact. Environmental investigations and assessments should be conducted to evaluate human and ecological risks based on various scenarios.

5. Environmental Liability:
   The proposed project must not in any way introduce new contamination or spread or exacerbate existing contamination in soil and groundwater. Any party that causes or exacerbates the contamination could potentially be held liable for the contamination.
6. If buildings or other structures are to be demolished on any Project sites included in the proposed Project, surveys should be conducted for the presence of lead-based paints or products, mercury, asbestos containing materials, and polychlorinated biphenyl caulk. Removal, demolition, and disposal of any of the above-mentioned chemicals should be conducted in compliance with California environmental regulations and policies. In addition, sampling near current and/or former buildings should be conducted in accordance with DTSC’s Preliminary Endangerment Assessment (PEA) Guidance Manual.

DTSC requests the city of Morro Bay to consider and respond to these comments in the Response to Comments (RTC) letter and make the necessary edits in the DEIR.

DTSC appreciates the opportunity to comment on the Morro Bay Battery Energy Storage System Project. Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances. Should you have any questions or comments regarding this matter, please contact Yang Dong, Project Manager at yang.dong@dtsc.ca.gov or please respond to this letter or via email for additional guidance Thank you for your assistance in protecting California's people and environment from the harmful effects of toxic substances..

Sincerely,

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