



651 Commerce Drive
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April 26, 2018

TO: Facilities Committee

FROM: Carrie Pollo

SUBJECT: Notice of the Facilities Committee Meeting

Facilities Committee: In compliance with the Brown Act, if participating on the conference call **and/or online presentation**, please attend one of the locations listed below and post this notice at a publicly accessible location at the participation location **72-hours** before the call begins.

Date:	Wednesday, May 2, 2018
Time:	9:00 am
Where:	NCPA Headquarters 651 Commerce Drive Roseville, CA 95678
Contact at NCPA:	Carrie Pollo 916.781.4282

ALAMEDA MUNICIPAL PWR 2000 Grand St., Alameda 510.748.3901	BAY AREA RAPID TRANSIT 300 Lakeside Drive, Oakland 510.464.6435	CITY OF BIGGS 465 "C" Street, Biggs 530.868.5493
CITY OF GRIDLEY 685 Kentucky Street, Gridley 530.846.5695	CITY OF HEALDSBURG 435 Allen Ct., Healdsburg 707.431.3317	CITY OF LODI 1331 S. Ham Lane, Lodi 209.333.6762
CITY OF LOMPOC 100 Civic Ctr. Plaza, Lompoc 805.875.8299	CITY OF PALO ALTO 250 Hamilton Ave, Palo Alto 650.329.2273	PORT OF OAKLAND 530 Water Street, Oakland 510.627.1100
PLUMAS-SIERRA REC 73233 Hwy 70, Portola 530.832.4261	CITY OF ROSEVILLE 2090 Hilltop Cir, Roseville 916.774.5602	CITY OF SANTA CLARA 881 Martin Avenue, Santa Clara 408.261.5490
TURLOCK IRR. DISTRICT 333 E. Canal Drive, Turlock 209.883.8300	CITY OF UKIAH 300 Seminary Ave, Ukiah 707.463.6200	



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Agenda

Date: Wednesday, May 2, 2018

Subject: Facilities Committee Meeting

Location: NCPA Headquarters, 651 Commerce Drive, Roseville CA.

Time: 9:00 am

The Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an Action Item, a Report or an Informational Item. This agenda is often supplemented by various documents which are available to the public upon request. Pursuant to Government Code Section 54957.5, the following is the location at which the public can view agendas and other public writings: NCPA Offices, 651 Commerce Drive, Roseville California, or www.ncpa.com.

Persons requiring accommodation in accordance with the Americans with Disabilities Act in order to attend or participate in this meeting are requested to contact the NCPA Secretary at 916.781.3636 in advance of the meeting to arrange for such accommodations.

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

Any member of the public who wishes to address the Committee on matters not on the Agenda, but within the subject matter jurisdiction of the Committee, or any member of the public who desires to address the Committee on any item considered by the Committee at this meeting before or during the Committee's consideration of that item, shall so advise the Chair and shall thereupon be given an opportunity to do so.

OPEN SESSION

2. Approve minutes from the April 4, 2018 Facilities Committee Meeting.

3. NCPA Geothermal Facility – Steam Field Operations Forecast Report – Staff is seeking a recommendation for Commission approval of the 2018 Steam Field Operations Forecast Report dated April 2018, including approval regarding the market power price at which to curtail the load at the NCPA Geothermal facilities, as the Geothermal Operating Protocol effective July 1, 2018, and remaining in effect until replaced by the Commission. (*Commission Category: Consent; Sponsor: Geo*)

4. All Generation Services Facilities – Chemical Waste Management Inc. ISA – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Chemical Waste Management, Inc. for industrial waste disposal services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. (*Commission Category: Consent; Sponsor: Geo*)

5. **All Generation Services Facilities – Univar USA Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Univar USA, Inc. for the purchase of chemicals, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. *(Commission Category: Consent; Sponsor: Geo)*
6. **NCPA Combustion Turbine Facilities – CT2 Outage Update** – Staff will review the project outage status for CT2, and will be seeking a recommendation, as needed, for Commission approval of a contract and schedule adjustments for additional service on the CT2 unit. *(Commission Category: Discussion/Action Item; Sponsor: CT's)*
7. **NCPA Geothermal and Combustion Turbine Facilities, City of Redding, City of Roseville – Siemens Energy, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Siemens Energy, Inc. for T3000 maintenance and support, with a not to exceed amount of \$3,500,000, for use at NCPA Geothermal and Combustion Turbine facilities, and for use at the City of Redding and the City of Roseville. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. *(Commission Category: Consent; Sponsor: CTs)*
8. **All Generation Services Facilities, Members, SCPPA – Bay Cities Pyrotecator, Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Bay Cities Pyrotecator, Inc. for fire system maintenance services, with a not to exceed amount of \$500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. *(Commission Category: Consent; Sponsor: CTs)*
9. **All Generation Services Facilities, Members, SCPPA – Fossil Energy Research Corporation MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Fossil Energy Research Corporation for catalyst testing, ammonia grid tuning, and engineering support services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. *(Commission Category: Consent; Sponsor: CTs)*
10. **All Generation Services Facilities, Members, SCPPA – ECORP Consulting, Inc. MTCSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task Consulting Services Agreement with ECORP Consulting, Inc., for forecasting/modeling and environmental regulatory compliance assistance, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. *(Commission Category: Consent; Sponsor: Hydro)*
11. **NCPA Solar Project 1 – Informational Update** – Staff will present an informational update regarding the RFP for services to support site selection, screening, and development for Members participating in NCPA Solar Project 1, as well as a general project update. *(Commission Category: Informational; Sponsor: Generation Services)*
12. **NCPA Generations Services Plant Updates – Informational-Only** – NCPA Plant staff will provide the Committee with an informational update on current plant activities and conditions. *(Commission Category: Informational; Sponsor: Generation Services)*

- 13. Status of Insurance Claims Settlement Payments for Adit 4 and Beaver Creek** – Staff will provide an update on the collection of payments for these insurance claims. (*Commission Category: Informational; Sponsor: Administrative Services*)
- 14. Planning and Operations Update** – Staff will provide an update on issues related to planning and operations.
- 15. Schedule next meeting date** – The next Facilities Committee meeting is currently scheduled for June 6, 2018.

ADJOURNMENT

/cp



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Minutes

Date: April 12, 2018
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: April 4, 2018 Facilities Committee Meeting Minutes

1. **Call meeting to order & Roll Call** - The meeting was called to order by Committee Vice Chair Tikan Singh at 9:05 am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Alan Hanger and Debbie Whiteman (Alameda), Mark Sorensen (Biggs), Paul Eckert (Gridley), Jim Stack (Palo Alto), Jared Carpenter (Port of Oakland), and Steve Hance and Kathleen Hughes (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Healdsburg, Plumas-Sierra, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

2. **Approve minutes from the February 28, 2018 Facilities Committee Meeting, and the February 13 and March 13, 2018 Special Facilities Committee Meetings.** A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending approval of the February 28, 2018 Facilities Committee meeting minutes, and the February 13 and March 13, 2018 Special Facilities Committee meeting minutes. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Port of Oakland, Roseville, and Santa Clara. The motion passed.
3. **Geothermal Facilities Decommission Funding Schedule** – Staff presented background information and was seeking a recommendation from the Facilities Committee for Commission approval of a modified Decommission Funding Schedule for the Geothermal Facility based on the 2016 Decommission Study. A draft Commission Staff Report with the draft Resolution were available for review.

Motion: A motion was made by Shannon McCann and seconded by Alan Hanger recommending Commission approval stating that the collection of funds for the decommissioning of the Geothermal facilities be modified based on the 2006 and 2016 Decommission Estimates. The recommendation is to continue the current funding schedule

based on the 2006 estimate through FY 2024. Starting in FY 2025, decommission funding will increase to a flat rate of \$2,417,081 per fiscal year through FY 2058. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Roseville, and Santa Clara. ABSTAIN = Palo Alto and Port of Oakland. The motion passed.

4. **Geothermal Facilities – Geysers Economic Curtailment** – Staff presented background information, and was seeking a recommendation for Commission approval regarding Geysers curtailment due to expected negative pricing.

Motion: A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending Commission approval that the Geothermal facility not be curtailed unless Power prices are a negative price of at least \$25/MWhr, with a curtailment level maximum of 45 MW. The amount of curtailment may need to be adjusted based upon steam field response. Only Cycle when the daily prices are expected to be at the negative price above for 4 hours or more. Limit cycling to once per day. Staff will also return to Facilities Committee with a report should instances of curtailment occur. YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Roseville, and Santa Clara. ABSTAIN = Palo Alto and Port of Oakland. The motion passed.

5. **All Generation Services Facilities, Members, SCPA – Univar USA Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Univar USA, Inc. for the purchase of chemicals, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPA, and SCPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. ***This item was pulled from the agenda and will be moved to the May Facilities Committee Meeting.***

6. **All Generation Services Facilities, Members, SCPA – Herold and Mielenz Inc. MTGSA** – Staff is seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Herold and Mielenz, Inc. for motor maintenance services, with a not to exceed amount of \$750,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPA, and SCPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. ***This item was pulled from the agenda and will be moved to the May Facilities Committee Meeting.***

7. **Geothermal Facilities – TNG Energy Services MTGSA** – Staff gave background information and was seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with TNG Energy Services for labor, materials, and tools for serving wellhead valves and other equipment, with a not to exceed amount of \$750,000, for use at NCPA Geothermal facilities. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with TNG Energy Services for labor, materials, and tools to service wellhead valves and other associated equipment as part of NCPA's preventive maintenance and continuing operations, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$750,000 over five years, for use at the Geysers Geothermal Facilities. YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Roseville, and Santa Clara. ABSTAIN = Palo Alto and Port of Oakland. The motion passed.

8. All Generation Services Facilities – Chemical Waste Management Inc. ISA – Staff is seeking a recommendation for Commission approval of an Industrial Services Agreement with Chemical Waste Management, Inc. for industrial waste disposal services, with a not to exceed amount of \$1,500,000, for use at all facilities owned and/or operated by NCPA. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. ***This item was pulled from the agenda and will be moved to the May Facilities Committee Meeting.***

9. All Generation Services Facilities, Members, SCPPA – TNT Industrial Contractors Inc. MTGSA – Staff provided background information and was seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with TNT Industrial Contractors, Inc. for general T&M maintenance services, with a not to exceed amount of \$2,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Jiayo Chiang and seconded by Monica Padilla recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with TNT Industrial Contractors, Inc. for general T&M maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000.00 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Port of Oakland, Roseville, and Santa Clara. The motion passed.

10. All Generation Services Facilities, Members, SCPPA – Halliburton Energy Services Inc. MTGSA – Staff presented background information and was seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Halliburton Energy Services, Inc. for injection well related services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Shannon McCann and seconded by Jiayo Chiang recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Halliburton Energy Services, Inc. for well related services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Palo Alto, Port of Oakland, Roseville, and Santa Clara. The motion passed.

11. Hydroelectric Owner/Operator Responsibilities – Information-Only – NCPA Hydro staff presented Committee updates on NCPA’s responsibility as a dam owner/operator, and potential industry implications from the 2017 DWR Oroville Spillway incident.

Staff reviewed some of the National historical defining dam failures. The Division of Safety of Dams (DSOD) was formed in 1928 after the St. Francis dam failure. The 2017 DWR Oroville

spillway incident is the biggest dam safety incident of this generation due to the amount of evacuations. Since this incident there has been DSOD repercussions, as well as FERC repercussions. The DSOD is primarily focused on dam safety. NCPA has adopted FERC's principles of a supportive dam safety organization. General regulatory changes include growth in the following areas: physical inspections, comprehensive facility reviews, regulatory compliance and fees, consideration of appurtenant structures, and owners' dam safety programs and dam safety culture. The Potential Failure Mode Analyses (PFMAs) has expanded and will continue to expand to include broader operational/societal impacts. Due to the design of the NCPA hydro projects, safety is not a big concern. NCPA's main concern is cyber security or a terrorist attack.

Current NCPA projects include the McKays Point Spillway Plunge Pool Assessment with significant in-house research, a certified Independent Consultant and FERC review. The Union Dams dam and spillway repairs, with in-house labor planned during the summers of 2018, 2019, and 2020. Others include union inundation mapping investigation and the Owner's Dam Safety Program (ODSP) audit by an independent consultant in 2018. The NCPA hydro projects covered by ODSP include New Spicer Meadows, McKays Point, Alpine, Utica and low hazard dams.

- 12. All Generation Services Facilities, Members, SCPPA – Leidos Engineering, LLC MTPSA –** Staff presented and was seeking a recommendation for Commission approval of a Multi-Task Professional Services Agreement with Leidos Engineering, LLC for transmission and distribution design, and engineering services, with a not to exceed amount of \$1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by Monica Padilla and seconded by Shannon McCann recommending Commission approval authorizing the General Manager or his designee to enter into a Five Year Multi-Task Professional Services Agreement with Leidos Engineering, LLC for transmission and distribution design and engineering services, with any non-substantial changes recommended and approved by NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by the Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority ("SCPPA"), and SCPPA Members. A vote was taken by roll call: YES = Alameda, Biggs, Lodi, Lompoc, Palo Alto, Port of Oakland, Roseville, and Santa Clara. The motion passed.

- 13. NCPA Generation Services Plant Updates – Informational-Only –** NCPA Plant staff provided the Committee with informational updates on current plant activities and conditions at Hydro and the CTs.

Hydro staff reported that there is now 12 feet of snow at Spicer Meadows. Runoff in the major Sierra river basins now range from 43% to 80% of average, with NCPA's project at 60%. March was a great month, but still not enough. April will be above average. Collierville was forced offline for 8 hours due to the March 22 high tailwater event. The blower upgrade would have helped the curtailment by trimming the time to 5-6 hours instead of 8. There is also a high probability of Collierville high tailwater curtailment on April 7 due to a warm storm.

New Spicer Meadow was in an outage from March 13 – April 3 due to a PG&E cable fault between Salt Springs and Cabbage Patch. NCPA's lost revenue (energy + RECs) was \$9,000. The Collierville Unit 2 Generator is no longer de-rated. The unit has now been returned to full

capacity at 126.5 MW. It was de-rated to 115 MW in June 2017 following interim repair after a stator ground fault. The decision to remove the de-rate was made in consultation with multiple generator experts after reviewing observed current imbalance, heating differentials, and knowing that a full rewind is scheduled for this fall.

CT staff reported that 3 miles of the NCPA 8 mile southern transmission line is being upgraded. This is a PG&E TPP project. This will increase capacity to 700MW, so both LEC and STIG will be able to operate at full output at the same time when this is completed. LEC is 304MW, with STIG at 50MW. The current line is rated at 330MW, so LEC has been de-rated for STIG runs. This is also expected to reduce localized congestion. The CT1 has had 9 starts for the first quarter, so is being used a lot more. Costs are doing better at FY18 capacity cost of \$23 per KW-Yr. YTD compared to FY17 capacity cost of \$29 per KW-Yr. Forecasting is hard for this project.

14. Generation Services Request for Special Facilities Committee Meeting – Generation Services Administration staff presented a proposal for a Special Facilities Committee Meeting to be held in April for review and approval of services to support the NCPA Solar Project Phase 2.

The Committee agreed to schedule a Special Facilities Committee Meeting Tuesday, April 17th, at 10:00 am to discuss this item. ***Since the time of this meeting, the Special Facilities Committee Meeting was cancelled.***

15. Planning and Operations Update –

- The TO18 TAC trail initial brief was on March 23. An updated brief is expected on April 23, with a decision by June 1. There should be significant tariff reductions.
- TO19 is delayed due to a FERC order on tax reduction. PG&E needs to file by 4/16 on tax stated rate.
- Order 890 Complaint – FERC to hold a technical conference on May 1. PG&E, CPUC, TANC, SCE, SC, and NCPA will all be part of the Order 890 discussion at the technical conference in Washington, DC.
- Alameda Municipal Power will be putting out a RFP for renewable energy due to the retirement of a PG&E power plant in Oakland.
- Due to changes approved by the CAISO Board in the CRR auction, CRR revenue will likely be going down.
- East Bay Community Energy (EBCE) and San Jose Clean Energy (SJCE) Services Agreements have been approved for \$630,000 and \$640,000. NCPA is assisting EBCE with procurement of RA for 2018.
- Vela Wann accepted the position in Power Management as the new Energy Resource Analyst II.
- The Bureau of Reclamation is proceeding with a \$10m settlement of the \$93m due to the over payment of power. NCPA will continue to negotiate for the remainder of the over payments due to Members.

16. Schedule next meeting date – The next regular Facilities Committee Meeting is scheduled for May 2, 2018.

ADJOURNMENT

The meeting was adjourned at 11:44 am.



**Northern California Power Agency
April 4, 2018 Facilities Committee Meeting
Attendance List**

NCPA Facilities Committee Members, Alternates & Staff are requested to sign, but signature by members of the public is voluntary.

[illegible]

**Northern California Power Agency
April 4, 2018 Facilities Committee Meeting
Attendance List**

NCPA Facilities Committee Members are requested to sign, but signature by members of the public is voluntary.

MEMBER	NAME
ALAMEDA	
BART	
BIGGS	
GRIDLEY	
HEALDSBURG	
LODI	
LOMPOC	Tiksha Singh
PALO ALTO	
PLUMAS-SIERRA REC	
PORT OF OAKLAND	
ROSEVILLE	
SANTA CLARA	
TID	
UKIAH	



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: 2018 Steam Field Operation and Generation Forecast Report

AGENDA CATEGORY: Consent

FROM: Ken Speer

METHOD OF SELECTION:

Assistant General Manager

N/A

Division: Generation Services

If other, please describe:

Department: Geothermal

IMPACTED MEMBERS:

All Members ☐

City of Lodi ☒

City of Shasta Lake ☐

Alameda Municipal Power ☒

City of Lompoc ☒

City of Ukiah ☒

San Francisco Bay Area
Rapid Transit ☐

City of Palo Alto ☐

Plumas-Sierra REC ☒

City of Biggs ☒

City of Redding ☐

Port of Oakland ☐

City of Gridley ☒

City of Roseville ☒

Truckee Donner PUD ☐

City of Healdsburg ☒

City of Santa Clara ☒

Other ☐

If other, please specify

RECOMMENDATION:

Adopt Resolution XX-XX approving the 2018 Steam Field Operations and Forecast Report dated April 2018 as the Geothermal Operating Protocol effective July 1, 2018. This Operating Protocol is to remain in effect until replaced by the Commission.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

The Steam Field Operations Forecast Report is an in depth study of The Geysers reservoir relative to the operation of NCPA's Geothermal facility and provides a generation forecast of the facility. This report will act as the Operating Protocol with the goal of maximizing the generation output.

The Operating Protocol currently uses a two-zone strategy with wells on the west side of the NCPA lease producing to both Plant #1, Units #1 and #2. Wells on the east side of the NCPA lease produce to Plant #2, Unit #4. This Protocol will maximize generation while allowing for scheduling flexibility and reduction of load under the proper economic conditions. For 2018, these conditions are:

- Day Ahead Market Prices are a minimum of negative \$25 per MWhr.
- The level of curtailment will be limited to 45 MW with discretion to adjust this level based on the steam field response.
- Duration of the curtailment is to be a minimum of 4 hours.
- Curtailments are limited to once per calendar day.

The Protocol establishes a 2018 annual generation target of 100.3 gross MW.

FISCAL IMPACT:

The 2018-19 approved Geothermal budget covers the proposed action.

SELECTION PROCESS:

Not applicable.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (1):

- 2018 Geothermal Steam Field Operations and Forecast Report

RESOLUTION 18-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING THE 2018 STEAM FIELD OPERATIONS FORECAST REPORT AS THE 2018 GEOTHERMAL OPERATING PROTOCOL

(reference Staff Report #xxx:18)

WHEREAS, the Northern California Power Agency (NCPA) operates and maintains on behalf of the project owners a Geothermal Facility near Middletown, CA, consisting of two power plants with containment areas, and 80 steam production and injection wells connected by roads; and

WHEREAS, the 2018 Steam Field Operations Forecast Report is an in depth study of The Geysers reservoir relative to the operation of NCPA's GEO facility and provides a generation forecast of the facility. This report will act as the Operating Protocol with the goal of maximizing the generation output. The Operating Protocol currently uses a two-zone strategy with wells on the west side of the NCPA lease producing to Plant 1, Units #1 and #2. Wells on the east side of the NCPA lease produce to Plant #2, Unit #4. This Protocol will maximize generation while allowing for scheduling flexibility and reduction of load under the proper economic conditions. For 2018, these conditions are:

- Day Ahead Market Prices are a minimum of negative \$25 per MWhr.
- The level of curtailment will be limited to 45 MW with discretion to adjust this level based on the steam field response.
- Duration of the curtailment is to be a minimum of 4 hours.
- Curtailments are limited to once per calendar day.

The Protocol establishes a 2018 annual generation target of 100.3 gross MW; and

WHEREAS, 2018-19 approved budget covers the proposed action; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED that the Commission of the Northern California Power Agency adopts the Steam Field Operations and Forecast Report dated April 2018 as the Geothermal Operating Protocol effective July 1, 2018, to remain in effect until replaced by the Commission.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda			
San Francisco BART			
Biggs			
Gridley			
Healdsburg			
Lodi			
Lompoc			
Palo Alto			
Port of Oakland			
Redding			
Roseville			
Santa Clara			
Shasta Lake			
Truckee Donner			
Ukiah			
Plumas-Sierra			

BOB LINGL
CHAIR

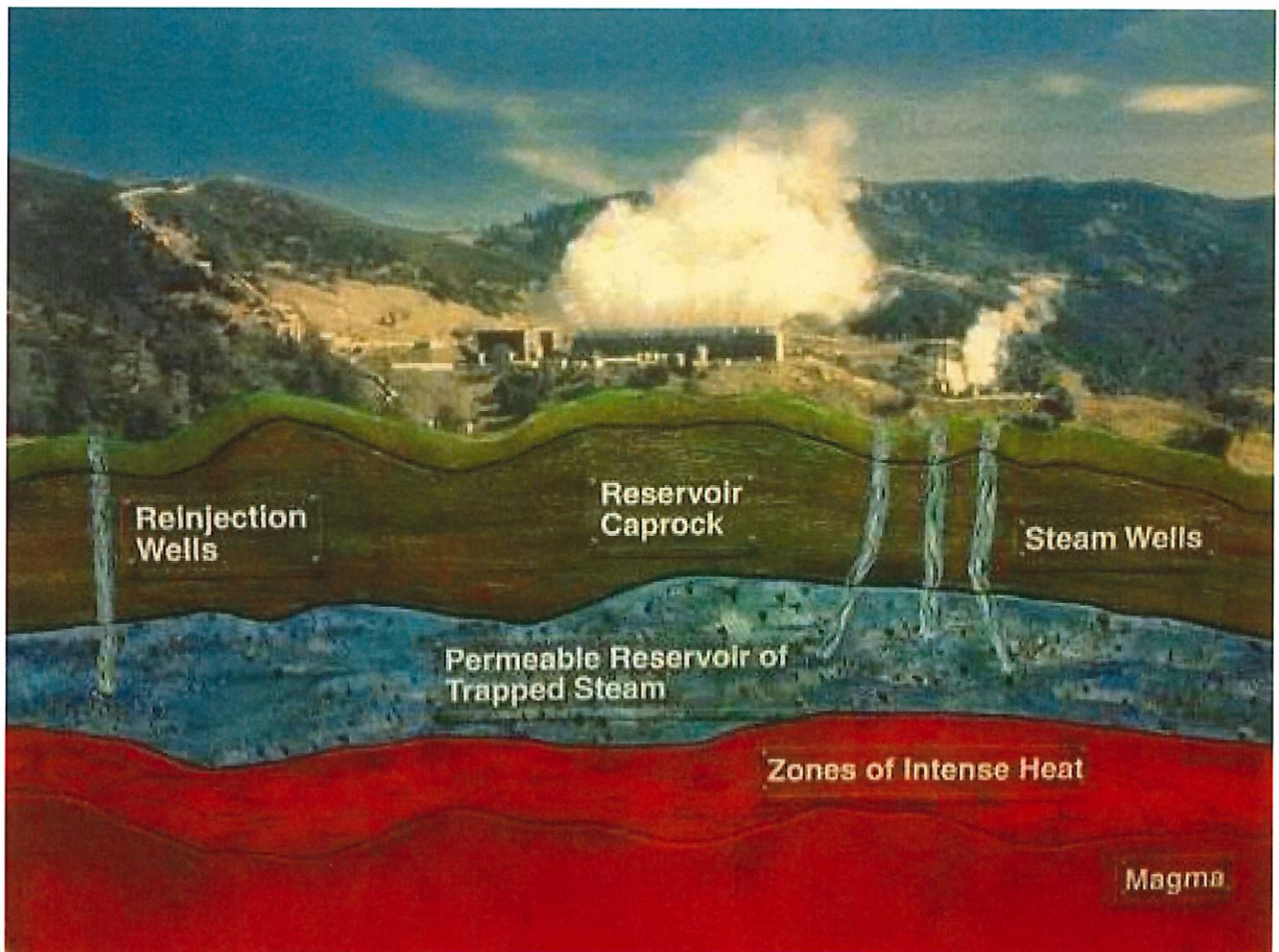
ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



Steam Field Operations

Forecast Report – April 2018



NCPA
Generation Services – Geothermal Facilities
Steam Field Operations and Forecast Report

April 2018

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NCPA
Generation Services Business Unit
Steam Field Operations and Forecast Report

April 2018

Introduction

This report provides an update on the status of the NCPA Geothermal Project. There are two main sections:

- I. A review of steam field operations including annual production and injection volumes, the Geothermal Operating Plan, water injection program, and projects.
- II. A review of 2017 reservoir performance with a generation forecast for 2018.

Analysis of geothermal reservoir during 2017 indicates a continued 1.9% harmonic decline consistent with prior projections. The average generating capacity for 2017 was 95.1 MW gross or 88.2 MW net. Gross generation for the year was 833.2 GWhrs with net generation of 772.4 GWhrs. Generation was lower than expected due to several transmission line outages mandated by Pacific Gas & Electric during the last quarter of 2017. In addition, the failure of a 2.4 KV transformer kept Unit #2 off line for the entire month of December 2017.

Water injection continues to be essential in maintaining reservoir pressure and mitigating steam production decline rates. The Southeast Geysers Effluent Pipeline project brings an average of 5,600 gpm of wastewater to The Geysers. NCPA and a nearby power producer share the water. In 2017, NCPA received 51.1% of the wastewater delivered to the Geysers. Combined with steam condensate, 2017 water injection rates averaged 3,608 gpm and is a reduction from the previous year's rate of 4,836 gpm. The drop in injection rate is due to NCPA receiving a larger than normal share of wastewater in 2016.

The 2018 generation forecast projects the average generating capacity to be 100.3 MW gross or 92.2 MW net for the year. NCPA geothermal facilities are forecast to generate 868.3 GWhrs gross or 794.8 GWhrs net in 2018. The estimated 25 year projected gross reserves are 17,834 GWhrs or 15,899 GWhrs net.

In terms of the fiscal year, the FY 2018 gross generation is estimated to be 846.3 GWhrs with net generation of 775.7 GWhrs. The respective gross and net generation projected for FY 2019 is 818.4 GWhrs and 748.5 GWhrs.

I. STEAM FIELD OPERATIONS

In This Section

- ▶ Overview of Annual Production and Injection
- ▶ Geothermal Operating Plan
- ▶ Water Injection Program
- ▶ Plant and Steam Field Projects

A. Overview of 2017 Production and Injection

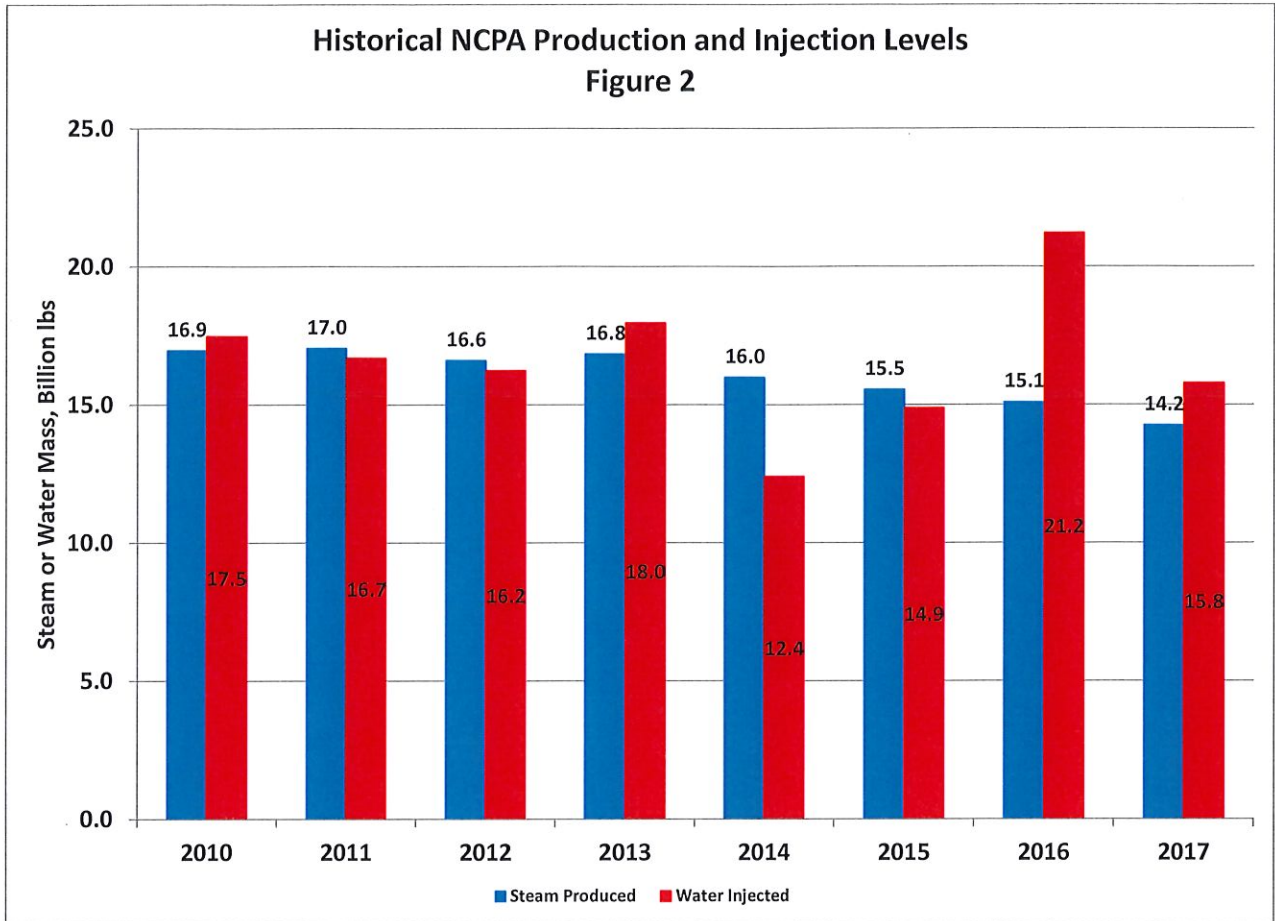
NCPA continued to operate the Geothermal Project as a base load facility in 2017. Steam production for the year was 14.2 Glbs with water injection of 15.8 Glbs for an annual mass replacement ratio of 111%. Water injection on the NCPA lease is a combination of steam condensate recovered from the cooling towers and wastewater from the Southeast Geysers Effluent Pipeline (SEGEP). The water from the SEGEP pipeline is shared between NCPA and a nearby power producer. While NCPA received 51.1% of the wastewater in 2017, the average total injection rate for NCPA decreased from 4,836 gpm in 2016 to 3,608 gpm in 2017. The main reason for the reduction was NCPA had received a much larger share of wastewater in 2016.

The cumulative mass replacement ratio from plant startup in 1983 through 2017 was 66.2% (*Figure 1*). The net mass withdrawal of steam from the reservoir (Mass Produced less Mass Injected) through 2017 is 221.7 billion lbs.

The average generation level for 2017 was 95.1 MW gross or 88.2 MW net. Generation was lower than forecast due to several transmission line outages mandated by Pacific Gas & Electric the last quarter of 2017. A 2.4 KV transformer also failed keeping Unit #2 off line for the entire month of December 2017. In 2018, generation capacity is forecast to be 100.3 MW gross or 92.2 MW net.

Production Highlights during 2017 include:

- ▶ Annual gross generation level in 2017 was 95.1 MW or 88.2 MW net.
- ▶ Average annual mass replacement (i.e., the percentage of steam production replaced by water injection) was 111% in 2017. The 2017 average injection rate was 3,608 gpm and is a 25% decrease over the previous year. The decrease was due to NCPA receiving a higher than normal amount of SEGEP wastewater in 2016.
- ▶ In 2018, the average generation capacity is forecast to be 100.3 MW gross or 92.2 MW net.



B. Geothermal Operating Plan

The Geothermal Project Operating Agreement requires the NCPA Commission to establish an Operating Plan and an annual operating level for the Geothermal Units. The purpose of the plan is to maximize the efficient use of the geothermal resource, protect the power plants and equipment, and meet all regulatory and permitting requirements.

A Geothermal Operating Plan, effective July 1, 2017, was approved and recommended by the Coordinated Operating Group (COG), the Generation Services Business Unit, and the NCPA Commission during the May 25, 2017 meeting. The Plan establishes an Operating Protocol that maintains a Two Zone operation within the NCPA lease. The Two Zone Operation was implemented to improve operational response time during a unit trip at Plant #1 and maximize generation on the NCPA lease while minimizing reservoir communication with nearby competitor operations.

Under this Protocol, the Geothermal Units have normally operated in a baseload condition. Steam production from the west side of the lease, Zone 1, is directed to Units #1 and #2 at Plant #1. Steam production from the east side of the lease, Zone 2, is directed to Plant #2, Unit #4 (*Figure 5*).

While the Protocol maximizes generation, it does allow for scheduling flexibility and reduction of load under the proper economic conditions. The increase in renewable energy in the electrical market has resulted in economic incentives where daily curtailment of the Geothermal Units is being considered. It is recommended that the Operating Protocol allow curtailments to occur under the following conditions.

- Day Ahead Market Prices are a minimum of negative \$25 per MWhr.
- The level of curtailment will be limited to 45 MW with discretion to adjust this level based on the steam field response.
- Duration of the curtailment is to be a minimum of 4 hours.
- Curtailments are limited to once per calendar day.

The flexibility to adjust generating loads under these conditions will allow NCPA to take advantage of economic incentives while protecting the power plant equipment, steam field infrastructure and reservoir.

C. Water Injection Program

NCPA continues to operate the steam field in the manner intended to maximize the recovery of injected water. In order to maximize recovery, it is important to have sufficient water and distribute it over the widest possible area of the field. It is also necessary to inject water at the lowest possible rate to maximize the heat transfer between the reservoir rock and water. Other factors that weigh into water injection strategy are targeting hotter zones of the field and higher gas concentrations within the reservoir. The water injection program discusses NCPA's supplemental water source, the Southeast Geysers Effluent Pipeline (SEGEP), current injection operations, micro-earthquake activity and non-condensable gas trends as a result of the injection.

1. Southeast Geysers Effluent Pipeline (SEGEP)

The Southeast Geysers Effluent Pipeline (SEGEP) project is a pipeline bringing water to The Geysers for the purpose of supplementing water injection in the field. During normal years, NCPA receives an average 2,700 gpm out of 5,600 gpm water that is delivered. Injection of this water into The Geysers reservoir helps mitigate reservoir pressure declines and increases steam reserves. *Figure 6* shows the historical SEGEP deliveries for NCPA and the total for the project.

SEGEP deliveries were at normal levels until the Valley Fire occurred in September 2015. The fire damaged several geothermal power plants that are operated by a nearby independent power producer and they were not able to take their allotted share of wastewater for several months. NCPA had a 30% higher than normal water injection from the SEGEP pipeline in 2016 as a result. NCPA's share of the wastewater has since returned to normal levels and average wastewater injection rates were 2,533 gpm in 2017 versus 3,774 gpm in 2016.

2. Injection Operations

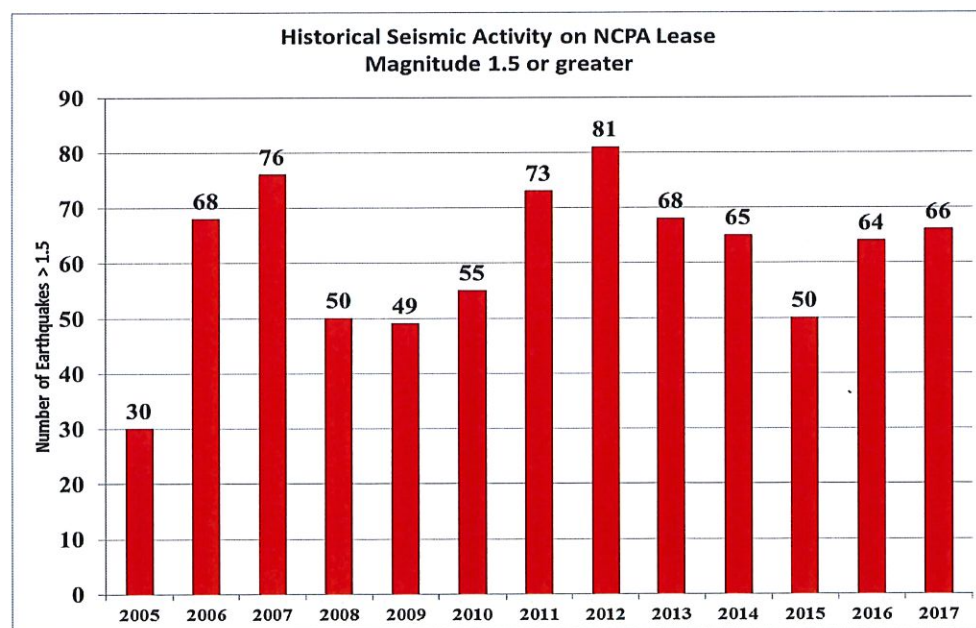
There were 10 different wells used for injection in 2017. The injection strategy continues to be an effort to spread water over large geographic area and limit injection rates down individual wells as much as possible. The 2017 overall injection rate of combined steam condensate and wastewater was 3,608 gpm. This is a reduction from 2016 when the overall injection rate was 4,836 gpm.

Figure 7 shows the relative location of the 10 injection wells on the NCPA lease. Five of these wells, E-8, H-4, Q-1, Q-4, and Q-10 were only connected to the SEGEP pipeline and therefore received only effluent or wastewater. One well, J-6, is a dedicated condensate injection well receiving water from Plant #2. The remaining four wells received a combination of condensate and wastewater. Figure 8 and Table 1 show the relative amounts and type of water each well received in 2017.

3. Micro-earthquake Activity

Studies by the United States Geological Survey (USGS) and others have demonstrated that the steam production and water injection at The Geysers can cause frequent micro seismic events to occur. As a result, NCPA and the other operators are required to continuously monitor and report on the earthquakes that occur within The Geysers geothermal field. Figure 9 is a map showing the locations of the 703 seismic events of magnitude 1.5 and larger that occurred within The Geysers field during 2017. Seven of these events had an earthquake magnitude of 3.0 or greater. The largest seismic event was a magnitude 4.16 on a competitor lease.

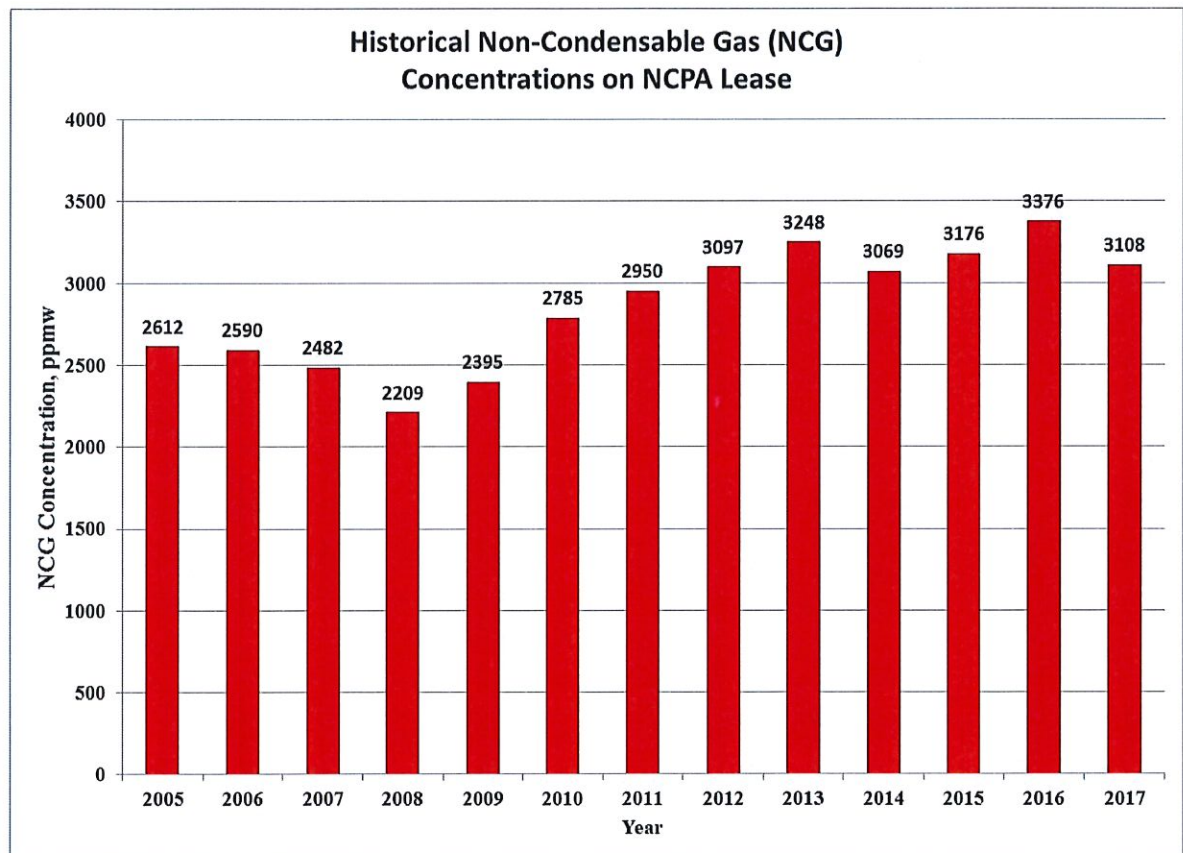
On the NCPA lease, there were 66 events of $M=1.5$ or greater. The largest event was a magnitude of 2.92. The figure below shows the historical seismic activity for the NCPA lease from 2005 through 2017. The seismic activity for 2017 was slightly higher than the activity in 2016.



4. Non-condensable Gas (NCG) Trends

Non-Condensable Gas (NCG) is a natural product of the reservoir and may be present in varying concentrations within the steam that is produced at The Geysers. NCG production reduces plant efficiency and increases chemical treatment costs. The values vary significantly based on operating guidelines for the field, plant outages, or injection strategy. Water injection in areas of high gas concentration generally reduces NCG production and improves plant efficiency.

Table 4 shows an annual sampling of all the producing wells in the field and the analysis for NCG's. These values can vary somewhat based on daily operational changes and the adjustment of injection strategies within the field, but are considered to be typical concentrations of NCG's for these wells. NCG concentrations were slightly down from the 2016. Figure 10 shows a comparison of the relative changes throughout the field.



D. Geothermal Facility Projects

Major projects completed in 2017 were:

- Plant #1 Yard Repair – A large 40 ft x 100 ft concrete pad was constructed in the Plant #1 yard to prevent asphalt damage from continued storage of phase separators and sulfur bins. In addition, a gas cylinder storage shed was constructed and repairs to existing asphalt in the plant yard were done. The project was completed on March 10, 2017 at a cost of \$206,865.
- Unit #4 Main Steam Pipeline – A new Unit #4 main steam pipeline was constructed for the purposes of reducing pressure losses and improving in generation. The pipeline was put into service on March 30, 2017 and the unit saw the expected 1 MW gain in generation. The project cost was the budgeted amount of \$950,000. With this project cost and generation benefit, the economics show a three-year payback on investment with an IRR of 38.5% achieved over a fifteen year life.

In 2018 and 2019, the planned major projects are:

- Plant #1 Overhaul – Both Units #1 and #2 at Plant #1 are scheduled for six week overhauls starting in April 2019. The scope of work will be to pull and inspect the both turbines, the Unit #2 generator, clean the condensers and Stretford gas processing equipment, and repair the balance of plant equipment. The Plant #1 overhaul is budgeted for \$2.9 million.
- P-Site Well Workovers – The wells P-4 and P-7 have partially collapsed casing that is inhibiting flow from these wells. The workovers will remove the restriction and restore full flow from the wells. The P-Site workovers will cost an estimated \$6 million.
- Plant #1 Ejector Upgrade – Steam ejectors at both Plants #1 and #2 are used to remove non-condensable gases from the steam condensers. The steam ejectors at Plant #1 are to be upgraded to operate at a lower pressure and use less steam. The project has been budgeted for \$275,000.
- Ball Cleaning System Upgrade – Ball cleaning systems are used to keep scale and debris from building up in the tubes of the steam condenser. Both ball cleaning systems at Plant #1 and #2 are over thirty years old and do not operate efficiently. They will be gradually replaced with more efficient systems. The project is currently budgeted for \$250,000.

II. 2017 RESERVOIR PERFORMANCE REVIEW

In This Section

- ▶ Reservoir Pressure Distribution
- ▶ Reservoir Pressure and Flowrate Decline
- ▶ 2017 Generation Review
- ▶ 2018 Generation Forecast

Reservoir performance can be affected by a number of factors such as changes in the location or amount of water injected, the operating pressure of the field, gain or loss of production wells, or changes in the operation of nearby competitor leases. The effects of these changes on the reservoir are normally monitored by conducting pressure build-up tests on production wells, tracer tests on injection wells, and a continuous review of pressure, temperature, and flowrate data from the field. This section will discuss recent changes in reservoir pressure distribution, reservoir pressure decline, and steam field flowrate decline.

A. Reservoir Pressure Distribution

One of the most important parameters in predicting and explaining reservoir performance is static reservoir pressure. *Figure 11* shows areal pressure distributions of static reservoir pressures for April 2017 and January 2018. In general, wells on the west side of the field have the lowest reservoir pressures (< 80 psig) and the east side of the field continues to be the higher pressure area.

B. Reservoir Pressure and Flowrate Decline

Changes in reservoir pressure over time are a function of the mass-replacement ratio. By injecting steam condensate and supplementing it with run-off fresh water and secondary treated wastewater from the Southeast Geysers Project, the decline in reservoir pressures has moderated or slowed with time.

In 2018, 65 wells were shut-in at various times to conduct pressure build-up tests. The tests revealed that the average wellhead shut-in pressure was 74.7 psig or an average increase in wellhead pressure of 2.6 psig. This may be a result of reduced injection when wastewater flows from the SEGEP pipeline were reduced due to drought conditions. The average well on the NCPA lease flows 25,700 lb/hr at 44.1 psig.

The projected flowrate decline is shown in *Figure 13*. In 2017, the overall steam field flow rate averaged 1,731 klbs/hr. This flow rate is projected to be 1,711 klbs/hr in 2018. The overall steam field decline is a harmonic 1.9%. Continued and strategic injection of water over a wide area of the reservoir is expected to enhance recovery and provide better reservoir pressure support in future years.

C. 2017 Generation Review

Gross generation for the NCPA Geo Facilities in 2017 was 833.2 GWhr with net generation of 772.4 GWhr. For FY 2018, gross generation is estimated to be 846.3 GWhrs with net generation of 775.7 GWhrs. The 2017 gross generation level was an average of 95.1 MW while net generation level averaged 88.2 MW.

D. 2018 Generation Forecast

The updated forecast of future reservoir performance, and the resulting energy generation forecast for the NCPA geothermal plants, was developed using decline curve analysis. Included in the forecast are:

1. Operation of the steam field in a two-zone operation.
2. The continued benefits being derived from the Southeast Geysers Effluent Pipeline Project.

The most recently developed forecast of steam field operations is illustrated in *Figure 12*. This graph shows NCPA's 35 year historical data for both steam production and water injection, and forecasts of production and injection out to year 2042. With the startup of the Effluent Pipeline in September 1997, and with its continuous operation projected thereafter, the average annual mass replacement is approximately 100%. Water injection should continually exceed production in the future and a gradual decline in the level of steam production will approach a near-sustainable level of 80% of the mass of water injected.

The total amount of steam capable of being produced by NCPA through year 2042 is currently estimated at 301.5 billion pounds. Remaining gross generation reserves are estimated to be 17,834 GWhr with net reserves of 15,899 GWhr. *Figures 14* and *15* respectively show the projected net generation capacity and total net generation amount for 2018 through 2042. *Table 4* details the annual gross and net generation. A more detailed monthly five year forecast can be found in *Table 5*.

In 2018, it is estimated that the Geo Facilities will generate 868.3 GWhrs gross or 794.8 GWhrs net. Respective gross and net generation capacity for the year are projected to be 100.3 MW gross and 92.2 MW net. For, FY 2019, the respective gross and net generation amounts are projected to be 818.4 GWhrs and 748.5 GWhrs.

SUMMARY

Steam Field Operations

- The NCPA lease produced 14.24 Glbs steam while injecting 15.78 Glbs of water resulting in an average mass replacement of 111% for the year.
- The average gross generation level for 2017 was 95.1 MW gross while the net generation level was 88.2 MW net.
- The average water injection decreased from 4,836 in 2016 to 3,608 gpm in 2017. The drop in injection rate was mainly due to NCPA receiving an excessive amount of wastewater in 2016 and a return to more normal level in 2017.
- Economic conditions may make it advantageous to periodically curtail the Geothermal Units. Curtailment of the units is recommended under the following conditions.
 - Day Ahead Market Prices are a minimum of negative \$25 per MWhr.
 - The level of curtailment is limited to 45 MW with discretion to adjust this level based on the steam field response.
 - Duration of the curtailment is a minimum of 4 hours.
 - Curtailments are limited to once per calendar day.

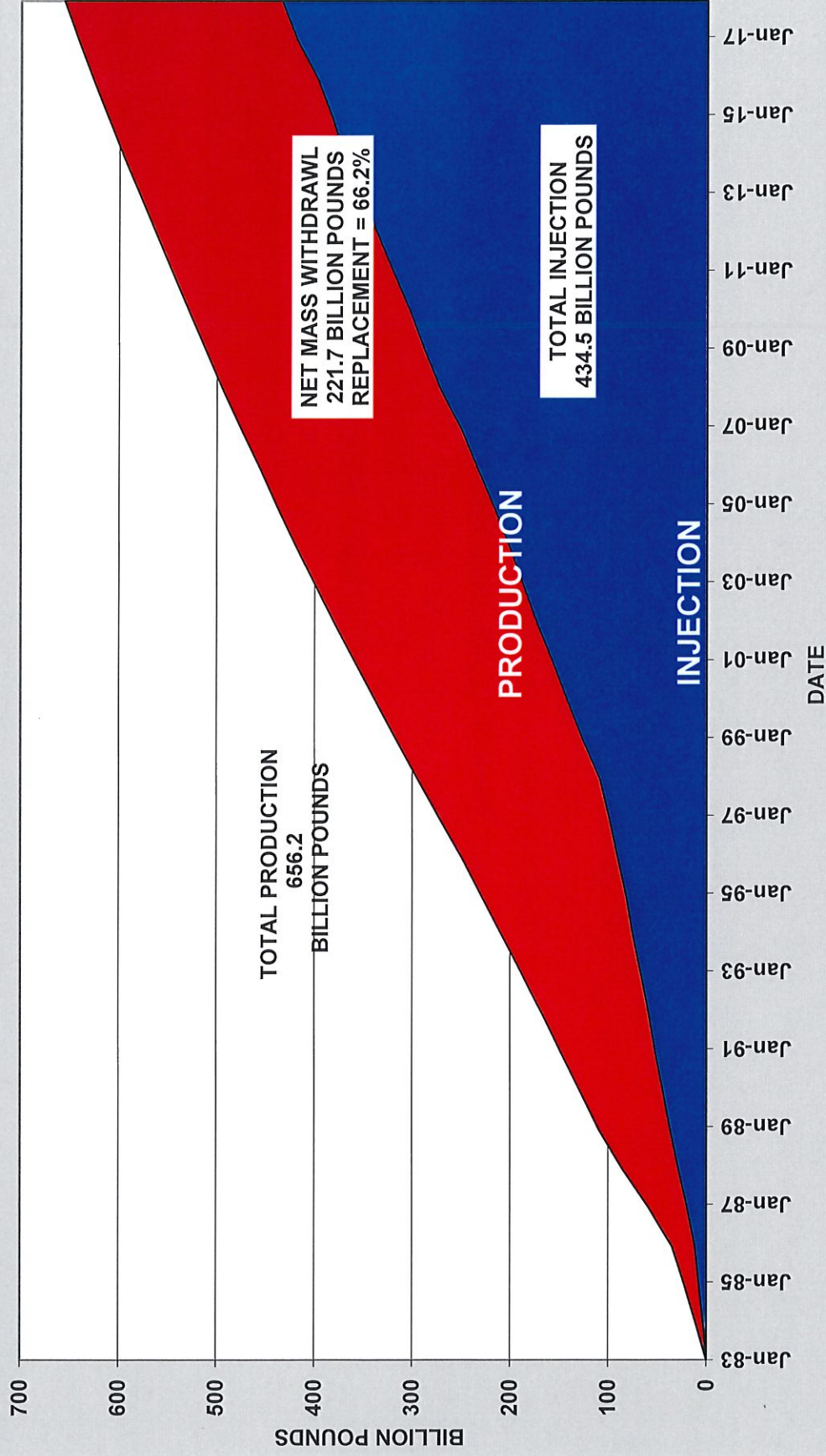
2017 Reservoir Performance Review

- Average shut-in wellhead pressure for the NCPA lease was 74.7 psig. The average well produces 25.7 kph at 44.1 psig.
- The steam field deliverability was 1,731 klbs/hr in 2017. The projected 2018 deliverability is 1,711 klbs/hr. The projected harmonic decline rate going forward is 1.9%.

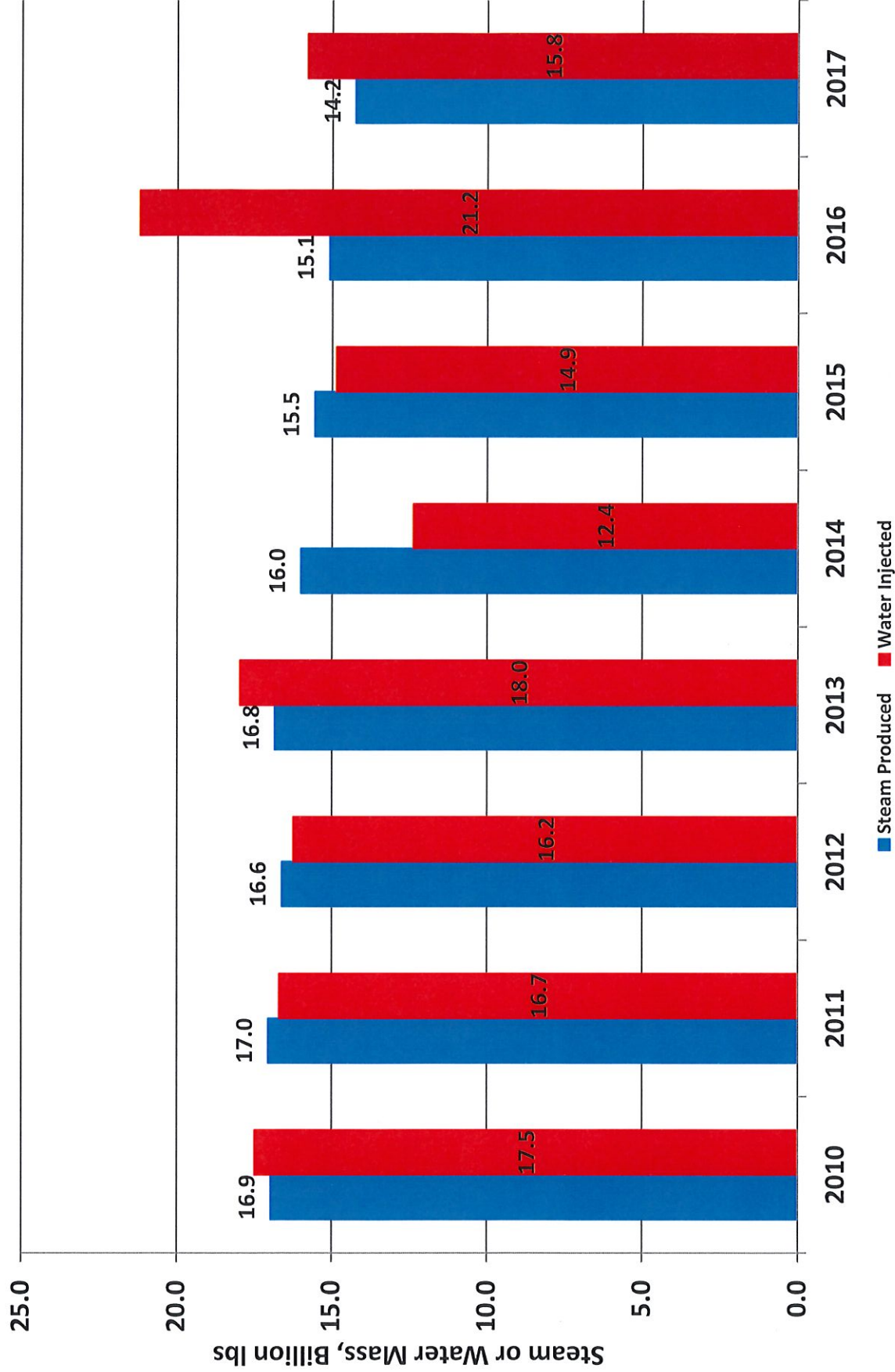
2017 Generation Review and 2018 Generation Forecast

- Gross generation for 2017 was 833.2 GWhrs with net generation of 772.4 GWhrs. For FY 2018, gross generation is projected to be 846.3 GWhrs with net generation of 775.7 GWhrs.
- The generation forecast covers the period from 2018-2042. Recoverable steam reserves are 301.5 billion pounds with the total amount of remaining gross generation estimated at 17,834 GWhr or net generation of 15,899 GWhr.
- The gross generation capacity for 2018 is expected to be 100.3 MW or 92.2 MW net. Gross generation forecast for the year is 868.3 GWhrs or 794.8 GWhr net. For FY 2019, the respective gross and net generation amounts are 818.4 GWhrs and 748.5 GWhrs.

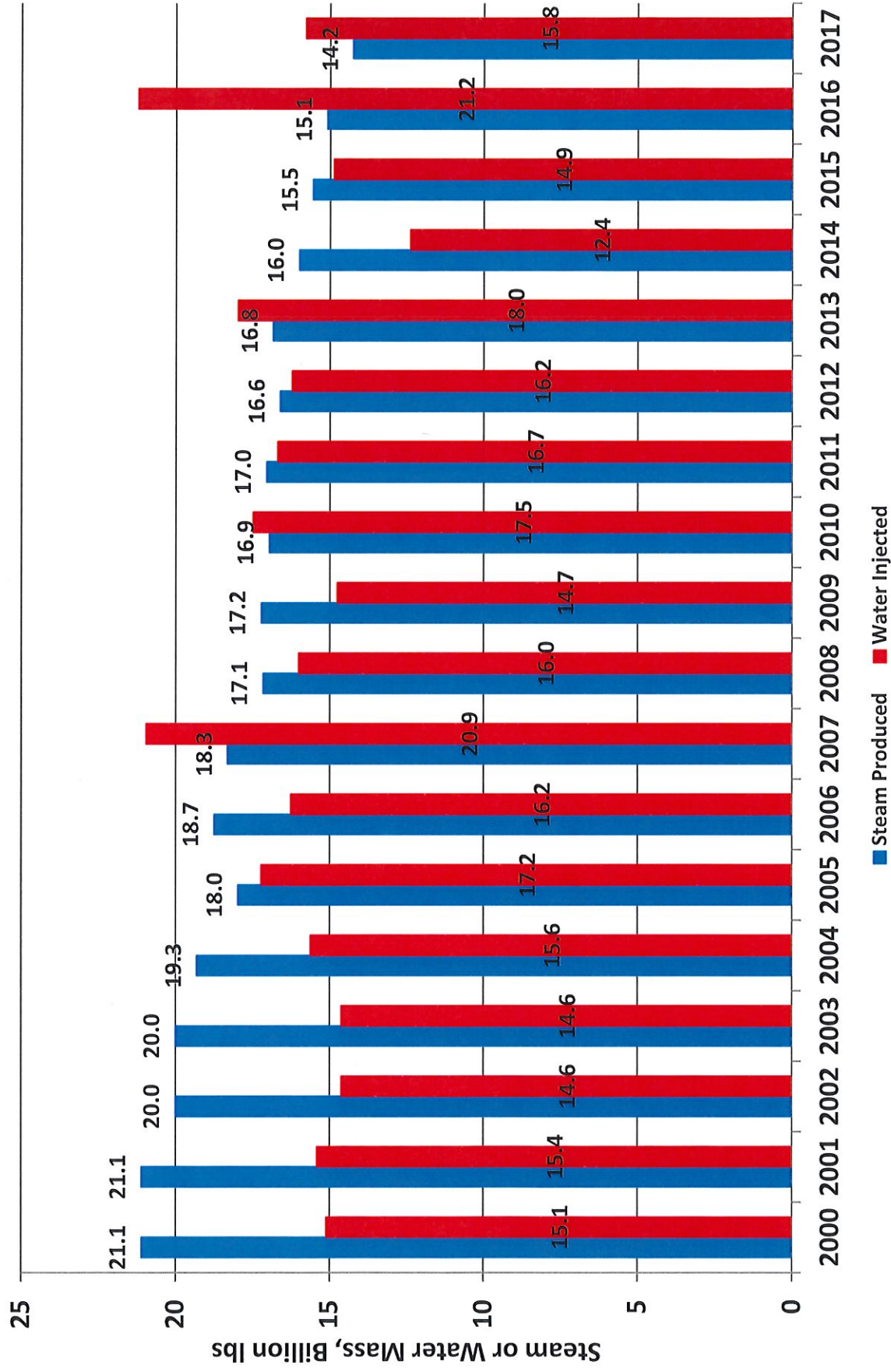
FIGURE 1
NCPA STEAMFIELD
CUMULATIVE PRODUCTION AND INJECTION



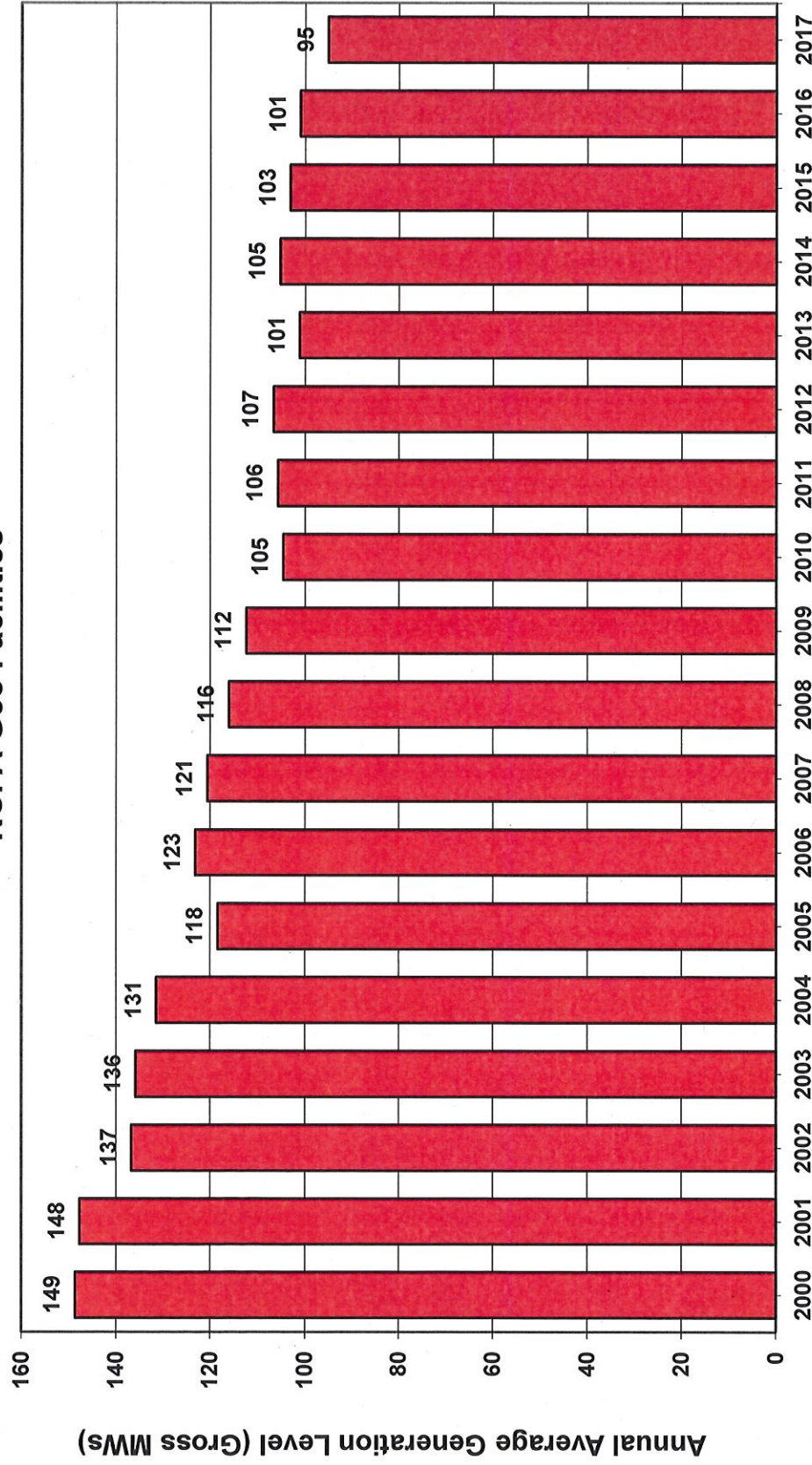
Historical NCPA Production and Injection Levels Figure 2



Historical NCPA Production and Injection Levels Figure 2



**Figure 3. Historical Power Generation Levels
NCPA Geo Facilities**



*Generation levels include downtime for unit outages and overhauls

2017 Gross Steam Utilization

Figure 4

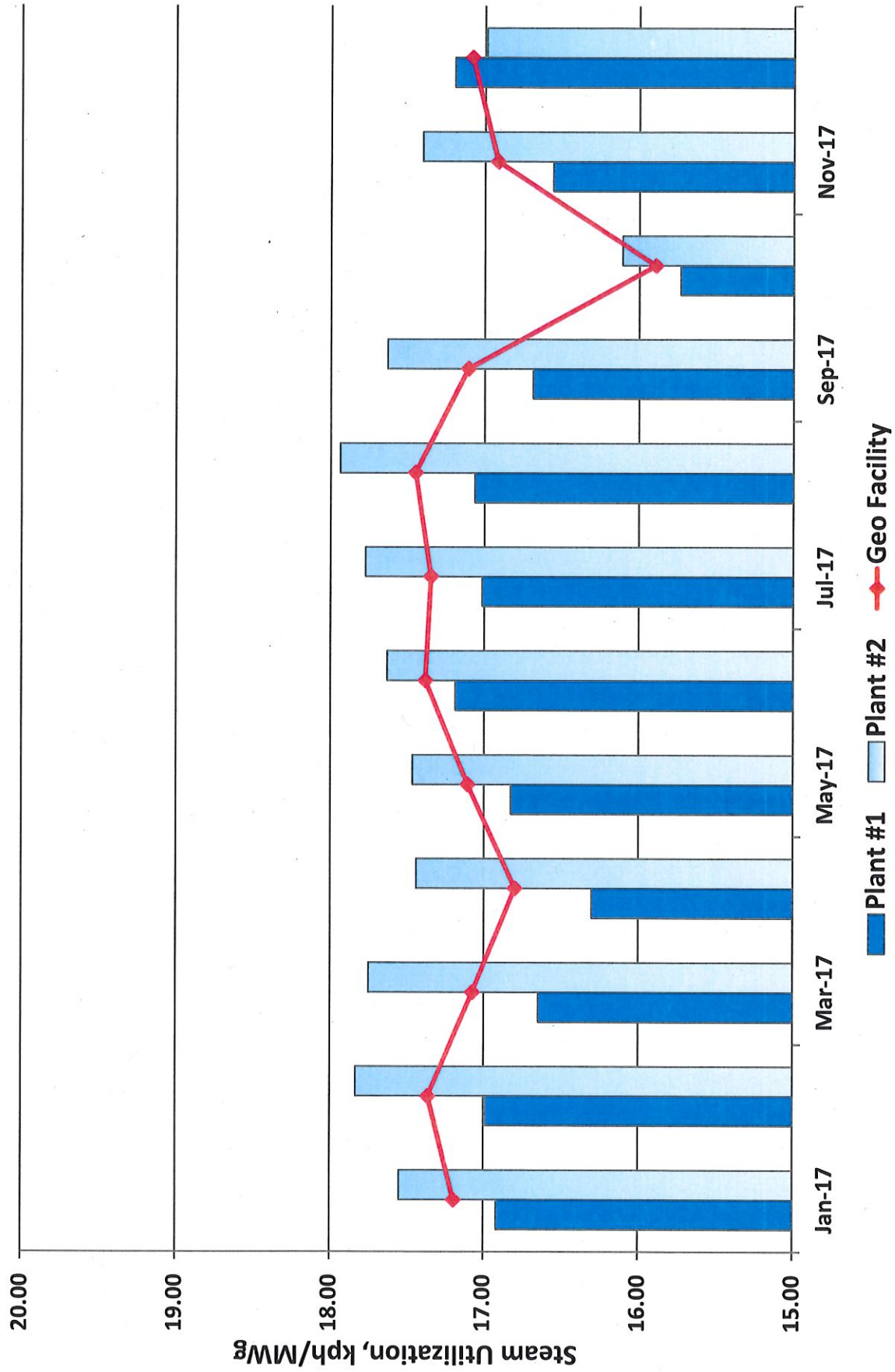
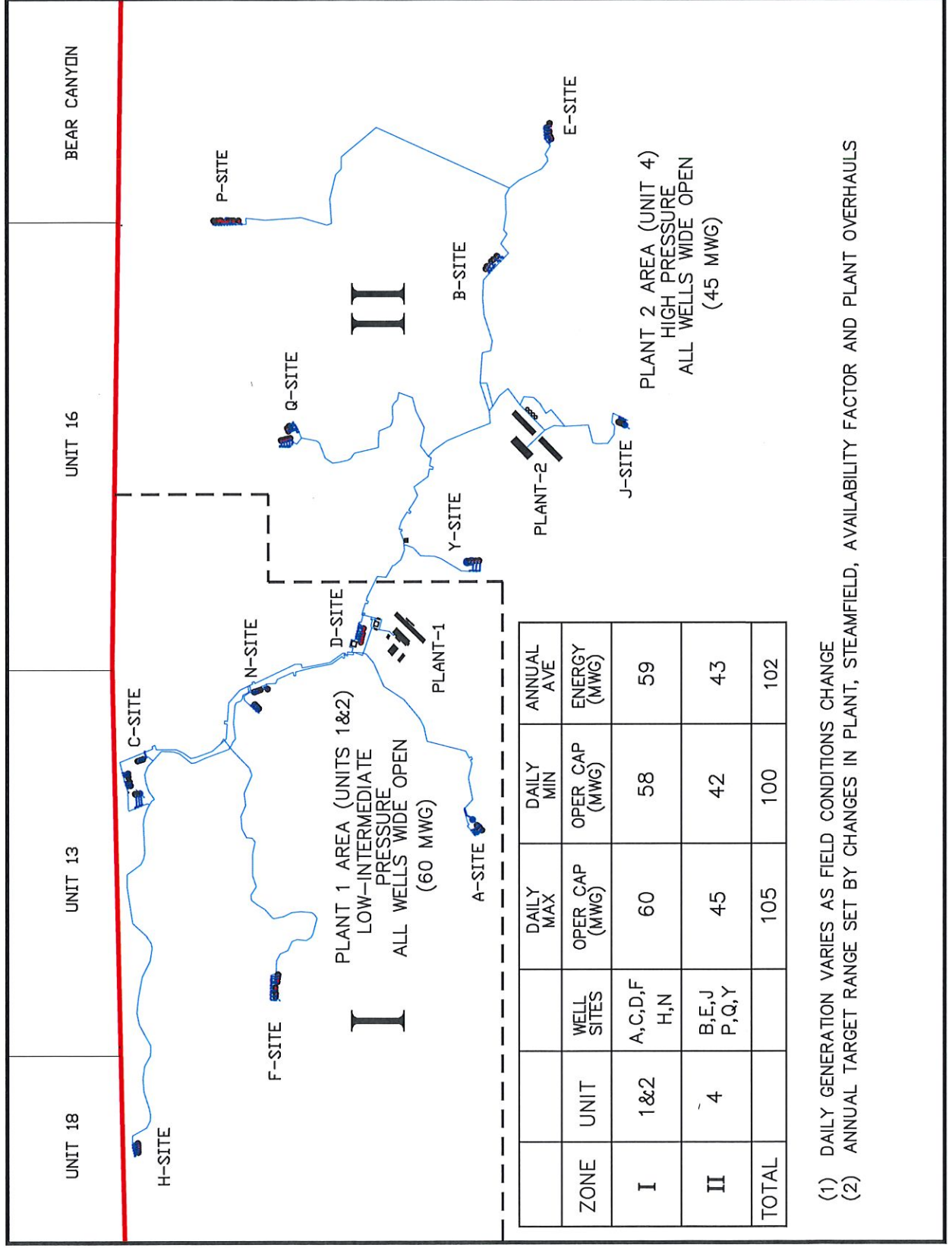


Figure 5. GEOTHERMAL OPERATIONAL PLAN 2018



**Figure 6. History of SEGEP Deliveries Total and NCPA
(Annual Average GPM)**

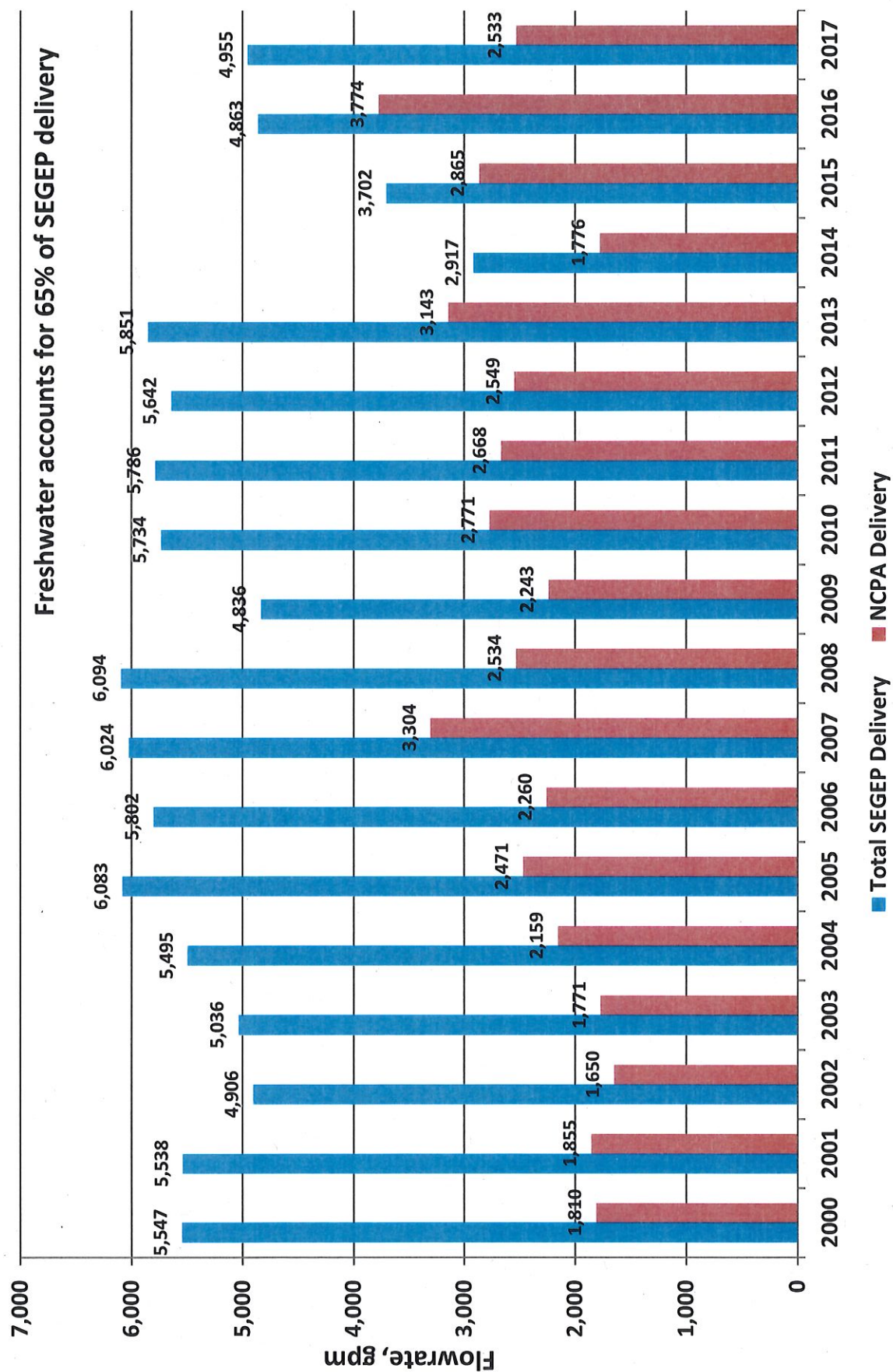


FIGURE 7 MODIFIED PLAN OF INJECTION

BLM Leases CA-949 and CA-950

To Calpine

To Calpine

STEAMFIELD OFFICE

SEDIMENTATION BASIN

PLANT 1

PLANT 2

POND 1

POND 2

THE EFFLUENT PIPELINE CONTINUES EASTWARD, INTERSECTING HIGHWAY 175 IN 3 MILES

LEGEND

Collection/Pipeline Systems

- Rain Water Collection/Pipeline System
- Condensate Pipeline System
- SE Geysers Effluent Pipeline System

Injection Well

Effluent Injection Well

Control Valve (CV)

Block Valve (BV)

MAP SCALE IN FEET

0 1000 2000

SEDIMENTATION BASIN

IN

OUT

IN

OUT

FACILITIES AT & NEAR Y-SITE

Y-4

Y-5

Y-6

Y-7

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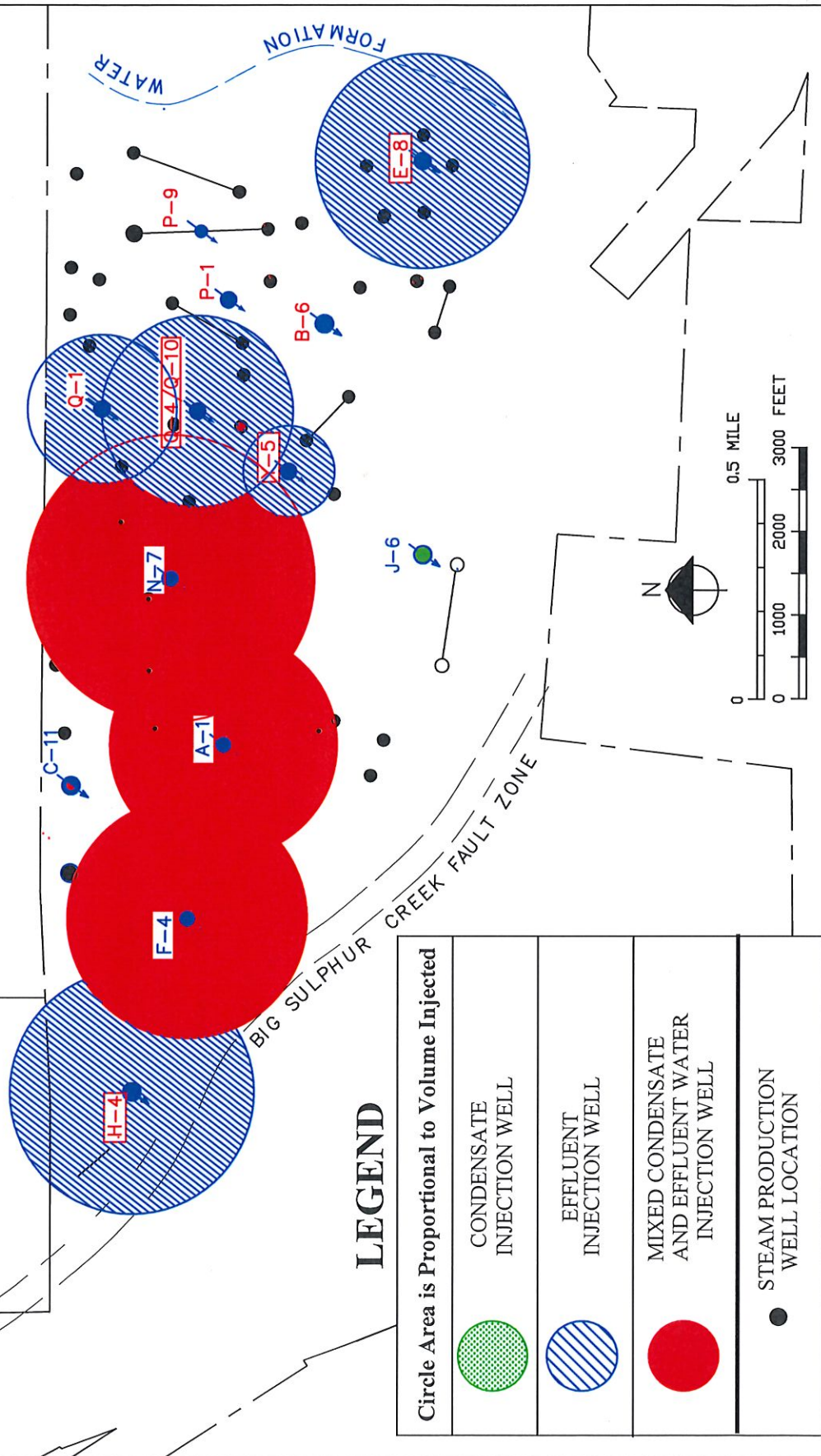
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FIGURE 8
NCPA STEAM FIELD
RELATIVE DISTRIBUTION OF INJECTED WATERS
DURING 2017

CALPINE

CALPINE



LEGEND

Circle Area is Proportional to Volume Injected

CONDENSATE
INJECTION WELL

EFFLUENT
INJECTION WELL

MIXED CONDENSATE
AND EFFLUENT WATER
INJECTION WELL

● STEAM PRODUCTION
WELL LOCATION

FIGURE 10
NONCONDENSABLE GAS CONCENTRATIONS
IN NCPA STEAM (ppm)

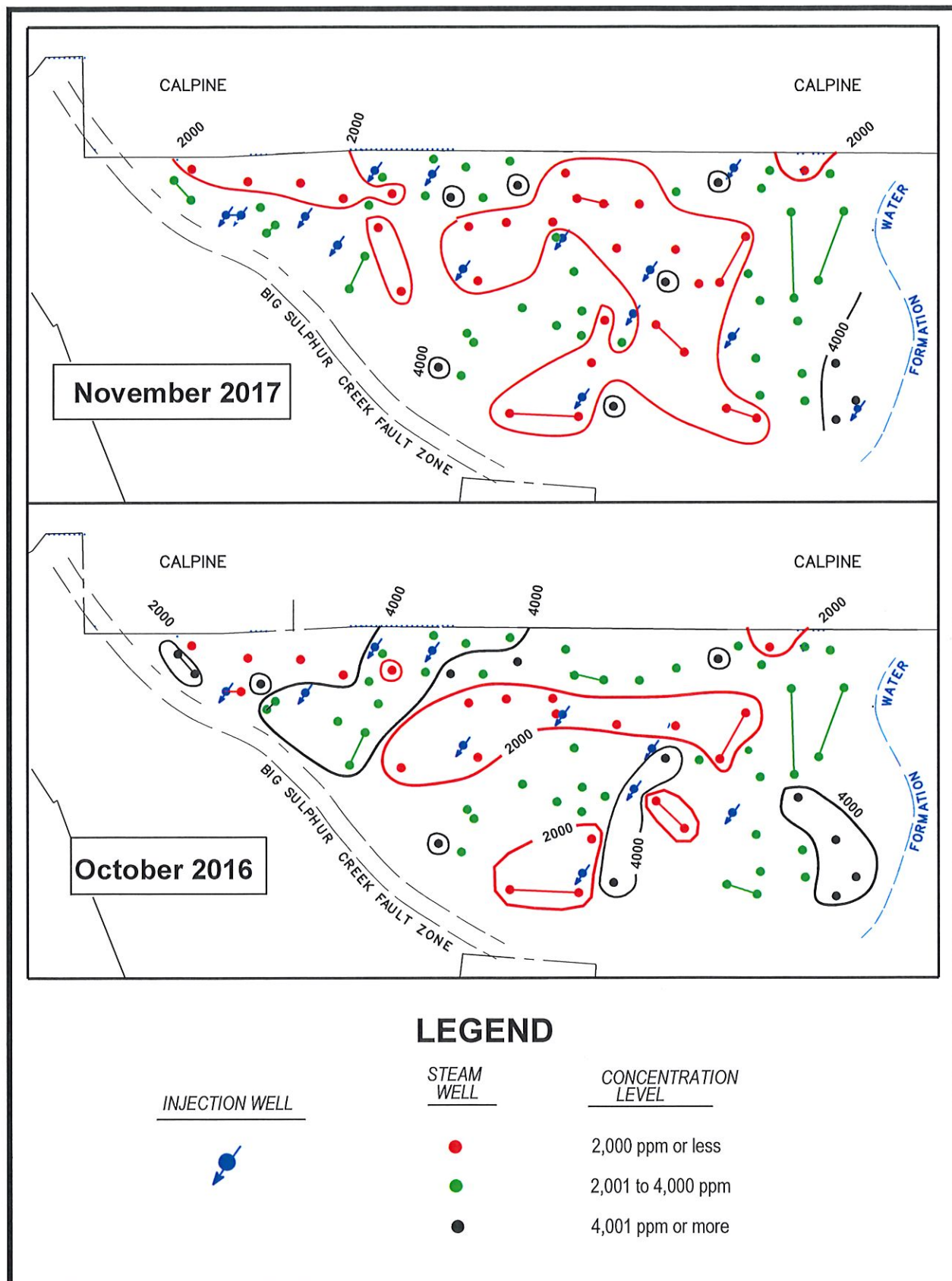
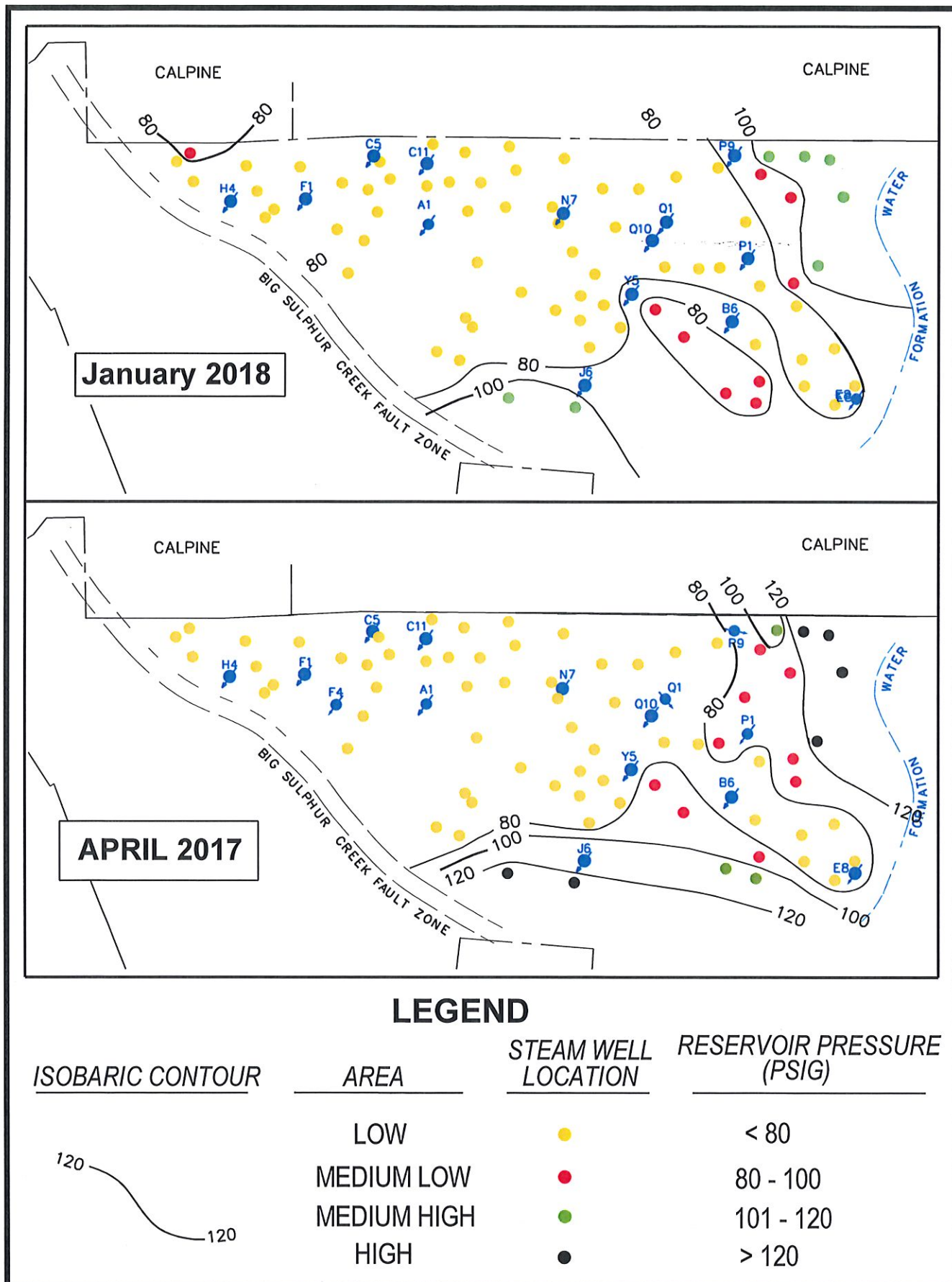
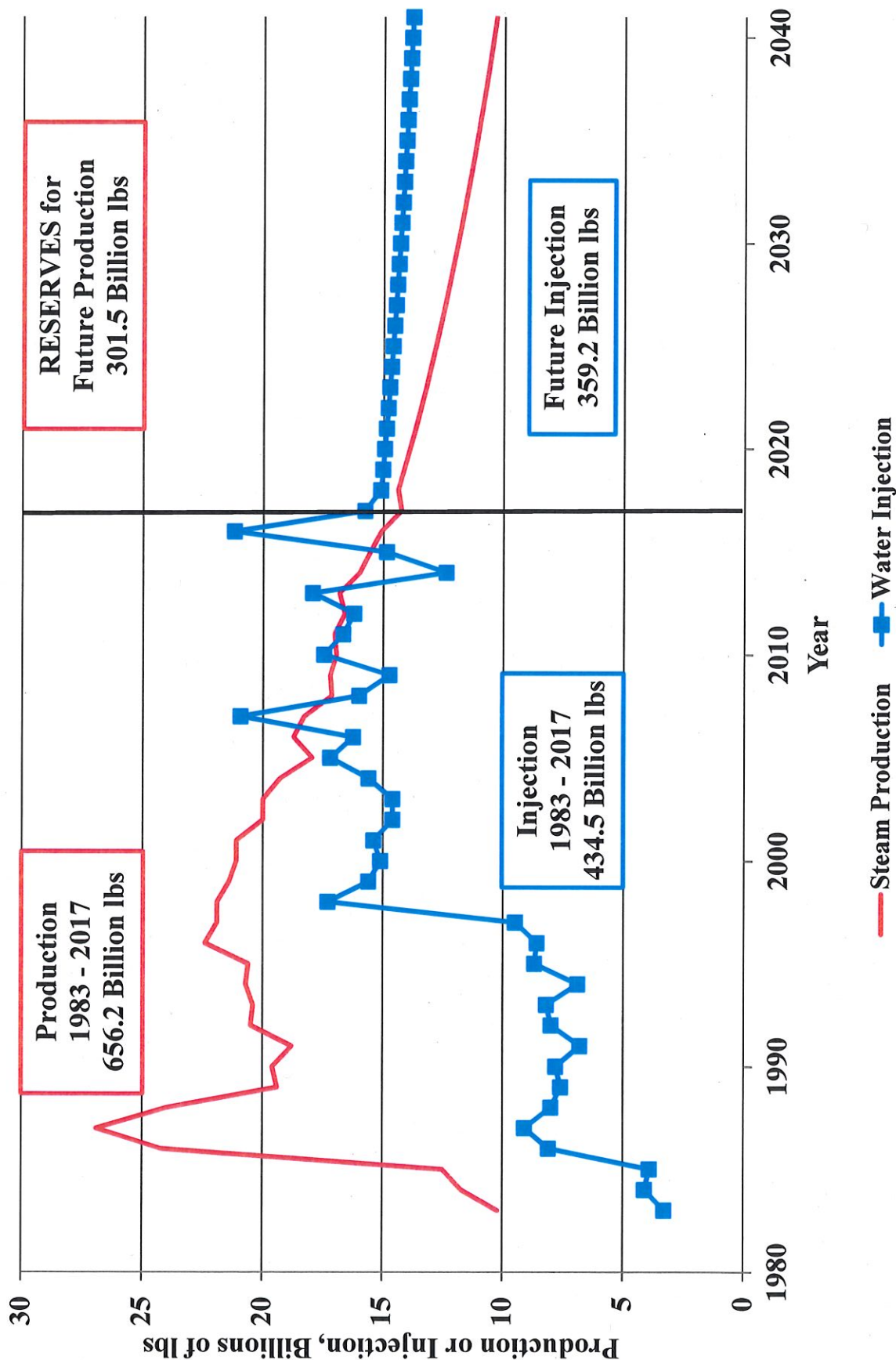


FIGURE 11
NCPA STEAM FIELD RESERVOIR PRESSURE



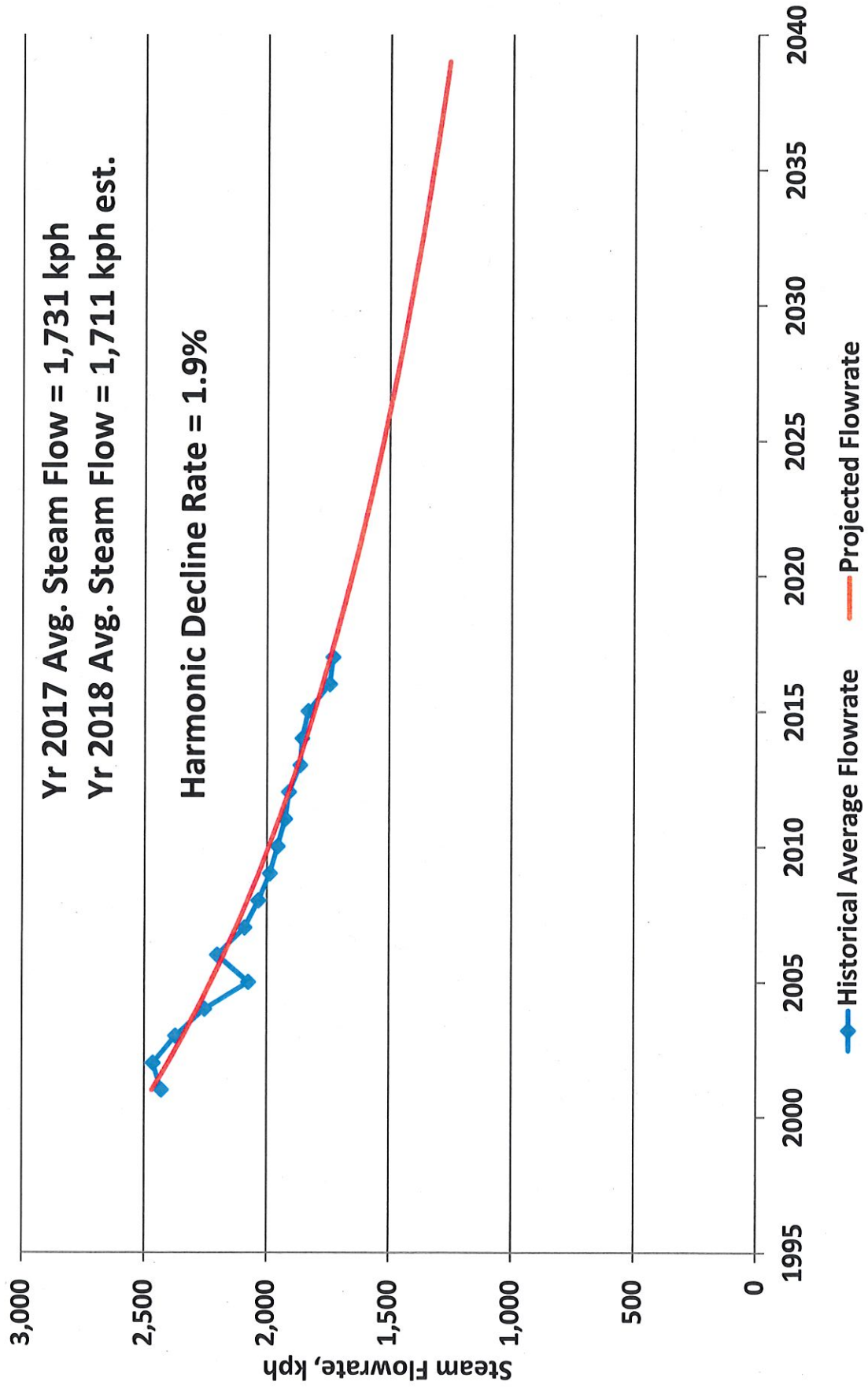
Historical and Forecast Steam Production & Water Injection

Figure 12



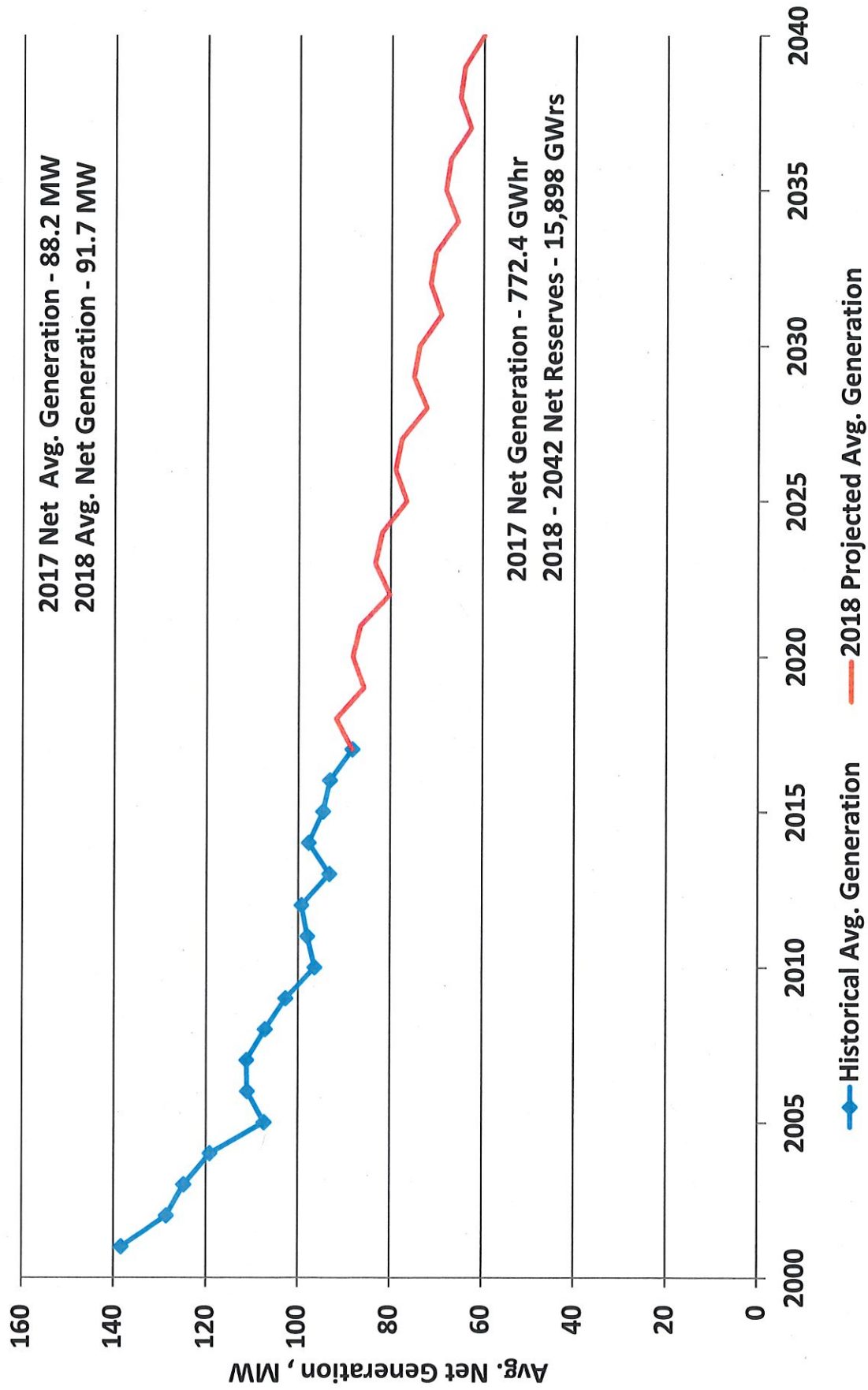
Historical and Projected Steam Flowrates Combined NCPA Plant #1 & #2

Figure 13



Historical and Projected Average Net Generation Level Combined NCPA Plants #1 & #2

Figure 14



Historical and Projected Net Generation Combined NCPA Plants #1 & #2

Figure 15

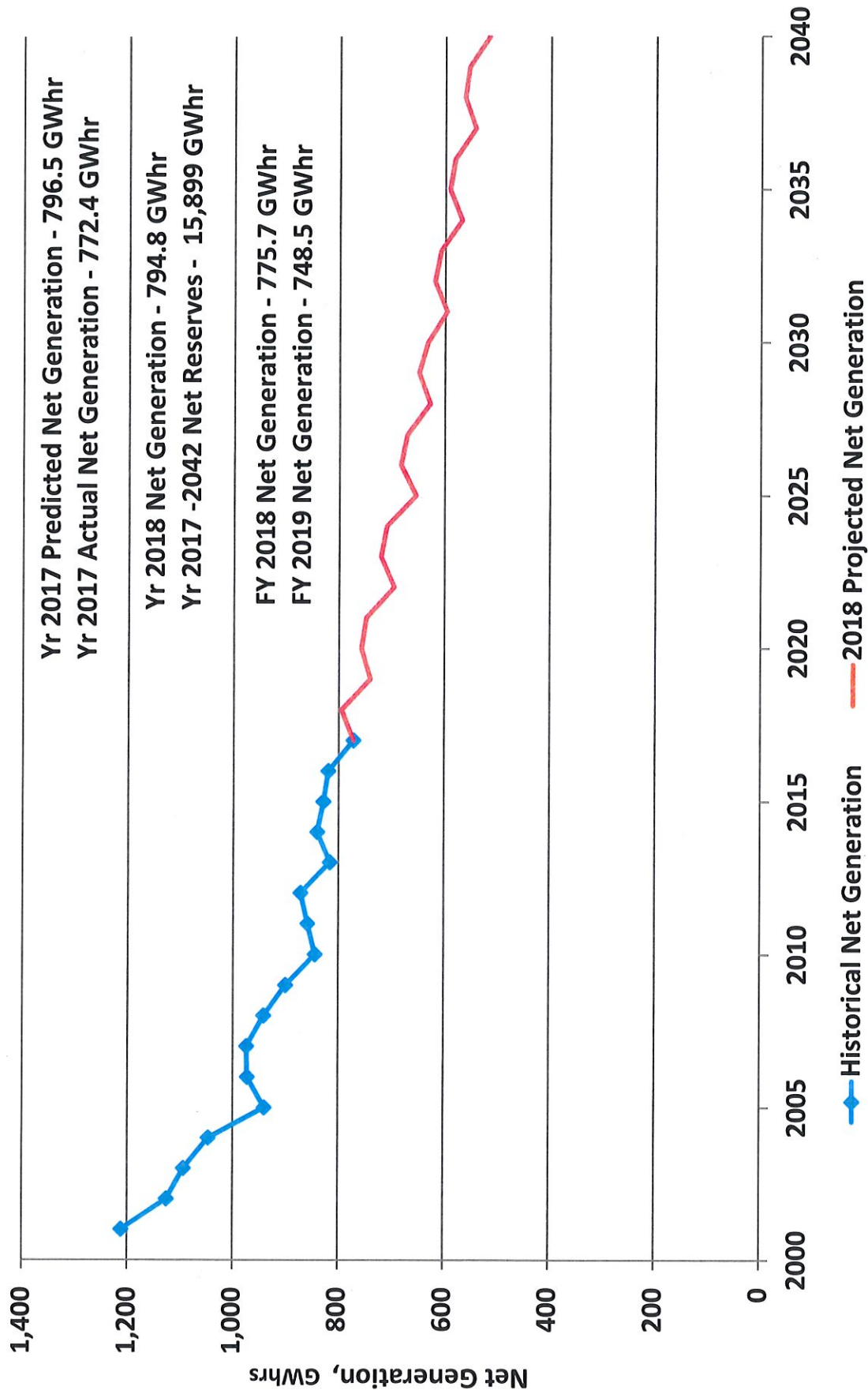


Table 1. ANNUAL REPORT OF NCPA INJECTION AT THE GEYSERS STEAM FIELD for Year 2017 (in 1000 Gallons)															
Well	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Condensate ⁽¹⁾	Effluent ⁽²⁾	Well Total
A-1	29,294 1,633	25,896 2,962	16,971 2,937	20,995 1,652	13,531 1,147	11,327 7,286	6,570 4,347	11,601 8,098	17,114 6,377	16,274 8,749	26,419 3,009	16,316 7,154	212,309	55,350	267,659
B-6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
C-5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
C-11	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
E-8	22,534	28,093	21,606	18,993	16,569	20,894	20,108	16,266	21,756	19,735	18,018	15,359	239,931	239,931	239,931
F-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
F-4	37,528 2,178	31,128 4,239	27,142 4,792	30,328 2,456	25,523 1,807	16,213 9,472	13,580 9,296	9,737 6,188	10,785 3,438	6,091 1,841	21,593 2,264	14,468 6,560	244,118	54,329	298,447
H-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0
H-4	30,141	31,165	25,290	22,522	20,682	27,779	27,227	24,540	26,297	24,214	22,261	28,448	310,566	310,566	310,566
J-6	160	327	5	-	368	-	-	-	-	-	-	-	860	-	860
N-4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
N-7	28,526 32,756	23,063 34,413	3,448 29,094	13,207 24,713	1,012 22,581	3,385 39,321	- 24,216	123 21,419	4,275 27,339	6,151 26,714	12,798 25,009	4,605 21,100	100,592	328,676	429,268
P-1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
P-9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Q-1	14,600	14,276	13,915	16,266	16,218	21,110	5,943	-	8,555	4,537	-	-	115,420	115,420	115,420
Q-3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Q-4	20,219	17,992	19,576	19,231	2,996	-	-	-	-	-	-	-	-	-	-
Q-7	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Q-10	-	-	-	-	-	-	-	-	-	-	-	-	0	110,796	110,796
Y-5	-	-	-	2,798	1,446	12,235	11,733	940	10,027	4,049	-	-	43,228	43,228	43,228
Totals	263,232	251,906	187,426	175,103	128,069	169,022	123,020	98,912	135,963	118,155	131,371	114,010	Condensate(1) 557,878	Effluent(2) 1,338,311	Total 1,896,189
During each month the % of Effluent Pipeline water that was fresh water withdrawn from Clear Lake: 43%															
Notes: 1. "Effluent" (pipeline) volumes are water from Clear Lake together with LACOSAN and Clearlake Oaks treated wastewater. 2. The 9 Bold well names in <i>italics</i> are located in Lake County (Central Valley Region), the 10 others are in Sonoma County (North Coast Region).															

TABLE 2. GEOTHERMAL FACILITIES
Summary Table

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
<u>Generation (gross)</u>										
(MWh)	1,018,904	981,100	916,437	926,368	936,868	886,004	922,995	903,299	887,299	833,211
(MW)	116.0	112.0	104.6	105.7	106.7	101.1	105.4	103.1	101.0	95.1
<u>Generation (net)</u>										
(MWh)	942,153	900,599	844,642	858,747	872,422	816,824	862,842	837,379	819,149	772,398
(MW)	107.3	102.8	96.4	98.0	99.3	93.2	98.5	95.6	93.3	88.2
<u>Protocol</u>										
(MW)	116	113	108	108	108	108	107	107	107	105
<u>Steam Conversion</u>										
(Lbs / Kw)	16.83	17.53	18.33	18.39	17.72	18.99	17.33	17.20	17.00	17.10
<u>Steam Delivered</u>										
(Billion Lbs)	17.145	17.2	16.8	17.04	16.60	16.83	16.00	15.54	15.08	14.24
<u>Load Flexibility (gross)</u>										
Monthly High (MW)	121	117	109	109	110	109	110	110	109.78	103.10
Monthly Low (MW)	101	108	63	106	105	82	104	104	103.00	76.70
<u>Injection</u>										
Total (Billion Lbs)	16.00	14.74	17.45	16.66	16.22	17.96	12.39	14.86	21.21	15.78
Condensate (Billion Lbs)	4.87	2.87	4.96	4.79	5.00	4.21	4.62	4.20	4.94	4.64
Effluent (Billion Lbs)	10.83	9.82	12.13	11.82	11.18	13.75	7.77	12.50	16.27	11.13
<u>Mass Replacement</u>										
Annual (%)	93.3%	85.7%	103.9%	97.8%	97.7%	106.7%	77.5%	95.6%	140.6%	110.8%
Cumulative (%)	56.2%	57.2%	58.6%	59.8%	60.9%	62.2%	62.6%	63.4%	65.2%	66.2%
<u>Wells Used For Injection</u>										
	8	8	11	15	15	13	12	13	11	10
<u>NCPA Micro-seismic</u>										
Activity M>= 1.5	50	49	55	73	81	68	58	50	64	66
<u>NCPA Micro-seismic</u>										
Activity Maximum	2.97	2.64	2.99	3.3	2.91	3.76	4.38	2.99	3.37	2.92
Magnitude Event										
<u>NCG Concentration</u>										
(ppmw)	2,209	2,395	2,785	2,950	3,097	3,248	3,069	3,176	3,376	3,108

Table 3
RESERVOIR PRESSURE
BY WELL 2018

WELL	PRESS	WELL	PRESS	WELL	PRESS	WELL	PRESS
A-3	75.0	D-1	65.1			P-1	
A-4	74.1	D-2	77.8	H-1	71.3	P-2	102.8
A-5	77.6	D-6	74.3	H-2	83.6	P-4	76.2
A-6	74.2	D-7	71.0	H-3	72.3	P-5	118.9
A-SITE	75.2	D-8	76.6	H-4		P-6	53.5
		D-SITE	72.1	H-5	69.3	P-7	85.0
B-2	77.1			H-SITE	74.1	P-8	115.3
B-3	78.3	E-1	75.3			P-9	
B-4	76.1	E-2	77.1	J-2	78.2	P-SITE	92.0
B-5	74.8	E-3	82.7	J-3	95.4		
B-6		E-4	76.8	J-4	99.4	Q-1	
B-SITE	76.6	E-5	76.5	J-5	107.5	Q-3	66.0
		E-6	76.1	J-SITE	95.1	Q-4	63.7
C-1	63.3	E-8	68.8			Q-5	71.8
C-2	64.9	E-SITE	77.7			Q-6	67.6
C-4	65.8			N-1	66.2	Q-7	73.9
C-5	63.8	F-1	68.8	N-2	79.8	Q-8	73.2
C-6	62.2	F-2	71.4	N-3	68.6	Q-9	81.7
C-7	62.2	F-3	72.3	N-4	67.6	Q-SITE	68.6
C-8	70.1	F-4		N-5	67.7		
C-9	69.0	F-5	74.8	N-6	68.9	Y-1	70.6
C-10	64.4	F-6	71.2	N-SITE	70.6	Y-2	65.9
C-SITE	65.1	F-7	69.5			Y-3	73.5
		F-SITE	71.3			Y-4	54.8
						Y-5	
						Y-SITE	70.0

VALUES ARE FROM PRESSURE BUILD- UP TESTS

66 WELLS TESTED AVE. WELL PRESS EQUALS 74.7 psig

AVE SITE PRESS EQUALS 75.7 psig

AVE. FLOWRATE = 25.7 kph at 44.1 psig

TABLE 4 NCG CONCENTRATIONS (PPMW) 2017 BY WELL, AND SITE AND PROJECT							
WELL		NCG		WELL		NCG	
A-3	6136	D-1	2639	H-1	1746	P-1	
A-4	2693	D-2	2636	H-2	1176	P-2	2404
A-5	1538	D-6	2579	H-3	4148	P-4	1088
A-6	2725	D-7	595	H-4		P-5	1178
A-SITE	3273	D-8	1800	H-5	3341	P-6	2595
		D-SITE	1805	H-SITE	2603	P-7	3736
B-2	2767					P-8	3130
B-3	4001	E-1	8873	J-2	3300	P-9	
B-4	2280	E-2	3471	J-3	948	P-SITE	2355
B-5	2116	E-3	3554	J-4	1780		
B-6		E-4	4448	J-5	761	Q-1	
B-SITE	2791	E-5	7192	J-SITE	1697	Q-3	5042
		E-6	3156			Q-4	1483
C-1	3238	E-SITE	5116	N-1	1620	Q-5	2252
C-2	3693			N-2	1242	Q-6	1191
C-4	3671	F-1	825	N-3	960	Q-7	10166
C-5	16009	F-2	3584	N-4	1458	Q-8	2276
C-6	6431	F-3	1992	N-5	3310	Q-9	2296
C-7	3158	F-4		N-6	3518	Q-A	
C-8	2760	F-5	340	N-SITE	2018	Q-SITE	3529
C-9	5396	F-6	888				
C-A	941	F-7	1820			Y-1	2559
C-SITE	5033	F-SITE	1575			Y-2	3882
						Y-3	3153
						Y-4	4357
						Y-5	
						Y-SITE	3488
VALUES ARE FROM NCPA CHEM LAB ANALYSIS							
Number of wells samples wells sampled=						65	
AVG. WELL NCG =						3108	
AVG. SITE NCG =						2940	
NCG Flow Weighted Avg. =						2854	

2018 Generation - 25 Year Forecast
Table 5

Year	Total Geo Facilities		Plant #1		Plant #2	
	Gross	Net	Gross	Net	Gross	Net
	Generation GWhr	Generation GWhr	Generation GWhr	Generation GWhr	Generation GWhr	Generation GWhr
2018	868.3	794.8	490.3	438.7	378.0	356.1
2019	852.4	739.8	489.3	399.1	363.0	340.6
2020	827.8	757.1	480.0	431.3	347.8	325.8
2021	818.9	748.0	472.2	423.7	346.7	324.3
2022	764.6	695.3	466.0	417.4	298.6	277.9
2023	795.5	720.7	463.8	411.3	331.8	309.4
2024	784.7	709.7	459.0	406.5	325.7	303.2
2025	759.2	654.3	448.1	365.2	311.0	289.1
2026	754.1	683.1	442.5	393.9	311.7	289.3
2027	742.4	671.4	436.9	388.3	305.5	283.1
2028	700.9	627.9	436.3	384.0	264.6	243.9
2029	723.6	649.1	429.8	377.6	293.8	271.4
2030	703.0	632.5	421.0	372.4	282.0	260.1
2031	699.0	596.4	416.0	335.8	283.0	260.6
2032	690.9	619.7	412.1	363.4	278.7	256.2
2033	682.6	608.2	409.6	357.6	273.0	250.6
2034	641.1	568.5	404.8	352.9	236.3	215.6
2035	662.7	591.5	396.8	348.2	265.9	243.3
2036	653.3	582.1	393.3	344.6	260.0	237.5
2037	642.8	542.6	387.8	310.0	255.0	232.6
2038	637.5	563.3	386.7	334.9	250.8	228.4
2039	629.2	555.0	382.4	330.6	246.8	224.4
2040	585.2	516.7	375.0	326.4	210.2	190.3
2041	611.8	540.6	371.9	323.2	239.8	217.3
2042	602.4	531.4	366.9	318.3	235.5	213.1

Notes:

1. Assumes 3 unit operation.
2. Steam Reserves: 301.5 Billion lb.
3. Gross Reserves: 17,834 GWhr
4. Net Reserves: 15,899 GWhr
5. Plant #1 Auxiliary Load is fixed at 5.68 MW.
Plant #2 Auxiliary Load is fixed at 2.58 MW.
6. Plant availability is 99.5% or a forced outage rate of 43.8 hrs per year.
7. See Table 5B for scheduled outages.

2018 Generation Capacity - 25 Year Forecast
Table 5A

Year	Plant #1		Plant #2		Total	
	Avg. Gross	Avg. Net	Avg. Gross	Avg. Net	Avg. Gross	Avg. Net
	Gen.	Gen.	Gen.	Gen.	Gen.	Gen.
	MW	MW	MW	MW	MW	MW
2018	56.9	51.3	43.5	40.9	100.3	92.2
2019	56.1	46.3	42.0	39.4	98.1	85.7
2020	55.4	49.8	41.0	38.4	96.4	88.2
2021	54.6	49.0	40.1	37.5	94.7	86.5
2022	53.9	48.3	34.3	31.9	88.2	80.2
2023	53.2	47.6	38.4	35.8	91.6	83.4
2024	52.5	46.9	37.6	35.0	90.1	81.9
2025	51.8	42.4	36.8	34.2	88.6	76.6
2026	51.2	45.6	36.1	33.5	87.2	79.0
2027	50.5	44.9	35.3	32.8	85.9	77.7
2028	49.9	44.3	30.3	27.9	80.2	72.2
2029	49.3	43.7	34.0	31.4	83.3	75.1
2030	48.7	43.1	33.4	30.8	82.1	73.9
2031	48.1	38.9	32.7	30.2	80.9	69.1
2032	47.5	41.9	32.2	29.6	79.7	71.5
2033	47.0	41.4	31.6	29.0	78.6	70.4
2034	46.4	40.8	27.1	24.8	73.6	65.6
2035	45.9	40.3	30.5	27.9	76.4	68.2
2036	45.4	39.8	30.0	27.4	75.4	67.2
2037	44.9	36.0	29.5	26.9	74.4	62.9
2038	44.4	38.7	29.0	26.4	73.4	65.2
2039	43.9	38.2	28.6	26.0	72.4	64.2
2040	43.4	37.8	24.6	22.2	68.0	60.0
2041	42.9	37.3	27.7	25.1	70.6	62.4
2042	42.4	36.8	27.2	24.7	69.7	61.5

* Average generation levels plants are capable of achieving.

2018 Scheduled Outages - 25 Year Forecast

Table 5B

Year	Plant #1		Plant #2
	Unit 1	Unit 2	Unit 4
	Scheduled	Scheduled	Scheduled
	Outages	Outages	Outages
	hrs	hrs	hrs
2018	72	72	72
2019	672	672	72
2020	72	72	72
2021	72	72	72
2022	72	72	1008
2023	72	72	72
2024	72	72	72
2025	672	672	72
2026	72	72	72
2027	72	72	72
2028	72	72	1008
2029	72	72	72
2030	72	72	72
2031	672	672	72
2032	72	72	72
2033	72	72	72
2034	72	72	1008
2035	72	72	72
2036	72	72	72
2037	672	672	72
2038	72	72	72
2039	72	72	72
2040	72	72	1008
2041	72	72	72
2042	72	72	72

2018 Generation - 5 Year Forecast

Table 6

Date	Total Geo Facilities		Plant #1		Plant #2	
	Gross	Net	Gross	Net	Gross	Net
	Generation	Generation	Generation	Generation	Generation	Generation
	GWhr	GWhr	GWhr	GWhr	GWhr	GWhr
Jan-18	77.0	72.7	43.1	40.6	33.9	32.1
Feb-18	70.0	64.1	39.6	35.4	30.4	28.7
Mar-18	80.9	69.7	47.7	38.2	33.2	31.5
Apr-18	57.6	53.4	27.7	25.0	29.9	28.3
May-18	74.1	68.1	42.2	38.1	31.9	30.0
Jun-18	71.6	65.8	40.8	36.8	30.8	29.0
Jul-18	73.9	67.8	42.1	38.0	31.8	29.9
Aug-18	73.8	67.7	42.1	37.9	31.7	29.8
Sep-18	71.3	65.4	40.7	36.6	30.7	28.8
Oct-18	73.6	67.5	42.0	37.8	31.6	29.7
Nov-18	71.1	65.2	40.6	36.5	30.5	28.7
Dec-18	73.4	67.3	41.9	37.7	31.5	29.6
Jan-19	73.2	67.2	41.8	37.7	31.4	29.5
Feb-19	66.1	60.6	37.7	34.0	28.3	26.6
Mar-19	70.0	26.5	41.7	0.0	28.3	26.5
Apr-19	70.6	61.1	40.3	32.7	30.2	28.4
May-19	72.8	66.8	41.6	37.5	31.2	29.3
Jun-19	70.4	64.5	40.2	36.2	30.1	28.3
Jul-19	72.6	66.5	41.5	37.4	31.1	29.1
Aug-19	72.5	66.4	41.5	37.3	31.0	29.1
Sep-19	70.0	64.2	40.1	36.1	29.9	28.1
Oct-19	72.3	66.2	41.4	37.2	30.9	29.0
Nov-19	69.8	64.0	40.0	36.0	29.8	28.0
Dec-19	72.1	66.0	41.3	37.1	30.8	28.8
Jan-20	71.9	65.9	41.2	37.1	30.7	28.8
Feb-20	67.2	61.5	38.5	34.7	28.7	26.9
Mar-20	71.7	65.7	41.2	37.0	30.6	28.7
Apr-20	54.5	49.7	35.8	32.2	18.7	17.5
May-20	71.5	65.4	41.1	36.9	30.5	28.5
Jun-20	69.1	63.2	39.7	35.7	29.4	27.6
Jul-20	71.3	65.2	41.0	36.8	30.3	28.4
Aug-20	71.2	65.1	40.9	36.8	30.3	28.4
Sep-20	68.8	62.9	39.6	35.5	29.3	27.4
Oct-20	71.0	64.9	40.8	36.7	30.2	28.3
Nov-20	68.6	62.7	39.5	35.4	29.1	27.3
Dec-20	70.8	64.7	40.7	36.6	30.1	28.1
Jan-21	70.7	64.6	40.7	36.5	30.0	28.1
Feb-21	63.8	58.3	36.7	33.0	27.0	25.3
Mar-21	67.6	61.7	40.6	36.4	27.0	25.3
Apr-21	64.2	58.7	35.3	31.7	28.9	27.0
May-21	70.3	64.2	40.5	36.4	29.8	27.9
Jun-21	67.9	62.0	39.2	35.1	28.8	26.9
Jul-21	70.1	64.0	40.4	36.3	29.7	27.7
Aug-21	70.0	63.9	40.4	36.2	29.6	27.7
Sep-21	67.6	61.7	39.0	35.0	28.6	26.7
Oct-21	69.8	63.7	40.3	36.1	29.5	27.6
Nov-21	67.4	61.6	38.9	34.9	28.5	26.6
Dec-21	69.6	63.5	40.2	36.0	29.4	27.5
Jan-22	69.5	63.4	40.2	36.0	29.3	27.4
Feb-22	62.7	57.2	36.2	32.5	26.4	24.7
Mar-22	40.1	35.9	40.1	35.9	0.0	0.0
Apr-22	49.0	43.5	34.8	31.2	14.1	12.3
May-22	69.1	63.0	40.0	35.8	29.1	27.2
Jun-22	66.8	60.9	38.6	34.6	28.1	26.3
Jul-22	68.9	62.8	39.9	35.7	29.0	27.1
Aug-22	68.8	62.7	39.8	35.7	29.0	27.0
Sep-22	66.5	60.6	38.5	34.5	28.0	26.1
Oct-22	68.6	62.5	39.8	35.6	28.9	26.9
Nov-22	66.3	60.4	38.4	34.4	27.9	26.0

2018 Generation Capacity - 5 Year Forecast*

Table 6A

Year	Plant #1		Plant #2		Total	
	Avg. Gross	Avg. Net	Avg. Gross	Avg. Net	Avg. Gross	Avg. Net
	Gen. MW	Gen. MW	Gen. MW	Gen. MW	Gen. MW	Gen. MW
Jan-18	57.9	54.6	45.6	43.1	103.5	97.7
Feb-18	55.0	49.2	45.2	42.7	100.2	91.9
Mar-18	58.2	51.4	44.8	42.4	103.0	93.7
Apr-18	57.1	51.5	43.2	40.6	100.3	92.1
May-18	57.0	51.4	43.1	40.6	100.2	92.0
Jun-18	57.0	51.3	43.1	40.5	100.0	91.8
Jul-18	56.9	51.3	43.0	40.4	99.9	91.6
Aug-18	56.8	51.2	42.9	40.3	99.7	91.5
Sep-18	56.8	51.1	42.8	40.2	99.5	91.3
Oct-18	56.7	51.1	42.7	40.1	99.4	91.2
Nov-18	56.6	51.0	42.6	40.0	99.2	91.0
Dec-18	56.6	50.9	42.5	40.0	99.1	90.9
Jan-19	56.5	50.9	42.5	39.9	98.9	90.7
Feb-19	56.4	50.8	42.4	39.8	98.8	90.6
Mar-19	56.4	0.0	42.3	39.7	98.7	39.7
Apr-19	56.3	50.7	42.2	39.6	98.5	90.3
May-19	56.2	50.6	42.1	39.5	98.4	90.1
Jun-19	56.2	50.5	42.0	39.5	98.2	90.0
Jul-19	56.1	50.5	42.0	39.4	98.1	89.9
Aug-19	56.0	50.4	41.9	39.3	97.9	89.7
Sep-19	56.0	50.4	41.8	39.2	97.8	89.6
Oct-19	55.9	50.3	41.7	39.1	97.6	89.4
Nov-19	55.8	50.2	41.6	39.0	97.5	89.3
Dec-19	55.8	50.2	41.6	39.0	97.3	89.1
Jan-20	55.7	50.1	41.5	38.9	97.2	89.0
Feb-20	55.7	50.0	41.4	38.8	97.0	88.8
Mar-20	55.6	50.0	41.3	38.7	96.9	88.7
Apr-20	55.5	49.9	41.2	38.6	96.8	88.6
May-20	55.5	49.8	41.2	38.6	96.6	88.4
Jun-20	55.4	49.8	41.1	38.5	96.5	88.3
Jul-20	55.3	49.7	41.0	38.4	96.3	88.1
Aug-20	55.3	49.7	40.9	38.3	96.2	88.0
Sep-20	55.2	49.6	40.8	38.2	96.1	87.8
Oct-20	55.2	49.5	40.8	38.2	95.9	87.7
Nov-20	55.1	49.5	40.7	38.1	95.8	87.6
Dec-20	55.0	49.4	40.6	38.0	95.6	87.4
Jan-21	55.0	49.3	40.5	37.9	95.5	87.3
Feb-21	54.9	49.3	40.4	37.9	95.4	87.1
Mar-21	54.9	49.2	40.4	37.8	95.2	87.0
Apr-21	54.8	49.2	40.3	37.7	95.1	86.9
May-21	54.7	49.1	40.2	37.6	95.0	86.7
Jun-21	54.7	49.0	40.1	37.6	94.8	86.6
Jul-21	54.6	49.0	40.1	37.5	94.7	86.5
Aug-21	54.5	48.9	40.0	37.4	94.5	86.3
Sep-21	54.5	48.9	39.9	37.3	94.4	86.2
Oct-21	54.4	48.8	39.8	37.3	94.3	86.1
Nov-21	54.4	48.7	39.8	37.2	94.1	85.9
Dec-21	54.3	48.7	39.7	37.1	94.0	85.8
Jan-22	54.2	48.6	39.6	37.0	93.9	85.7
Feb-22	54.2	48.6	39.6	37.0	93.7	85.5
Mar-22	54.1	48.5	0.0	0.0	54.1	48.5
Apr-22	54.1	48.4	19.7	17.1	73.8	65.6
May-22	54.0	48.4	39.3	36.7	93.3	85.1
Jun-22	53.9	48.3	39.3	36.7	93.2	85.0
Jul-22	53.9	48.3	39.2	36.6	93.1	84.9
Aug-22	53.8	48.2	39.1	36.5	92.9	84.7
Sep-22	53.8	48.1	39.0	36.5	92.8	84.6
Oct-22	53.7	48.1	39.0	36.4	92.7	84.5
Nov-22	53.6	48.0	38.9	36.3	92.5	84.3
Dec-22	53.6	48.0	38.8	36.2	92.4	84.2

* Average generation levels plants are capable of achieving.

TABLE 7
2018 FORECAST OF GEOTHERMAL PRODUCTION AND
INJECTION

TIME STEP	DATE			
		STEAM PROD. BLBS	COND INJ BLBS	WATER INJ BLBS
1	2018	14.4	4.6	15.1
2	2019	14.1	4.5	15.0
3	2020	13.9	4.4	15.0
4	2021	13.7	4.4	14.9
5	2022	13.5	4.3	14.8
6	2023	13.2	4.2	14.7
7	2024	13.0	4.2	14.7
8	2025	12.8	4.1	14.6
9	2026	12.6	4.0	14.6
10	2027	12.5	4.0	14.5
11	2028	12.3	3.9	14.4
12	2029	12.1	3.9	14.4
13	2030	11.9	3.8	14.3
14	2031	11.8	3.8	14.3
15	2032	11.6	3.7	14.2
16	2033	11.4	3.7	14.2
17	2034	11.3	3.6	14.1
18	2035	11.1	3.6	14.1
19	2036	11.0	3.5	14.0
20	2037	10.9	3.5	14.0
21	2038	10.7	3.4	13.9
22	2038	10.6	3.4	13.9
23	2039	10.5	3.3	13.9
24	2040	10.3	3.3	13.8
25	2041	10.2	3.3	13.8

NOTES :

1. CUM. PRODUCTION AND INJECTION 1983-2017 656.2 Billion Lbs Steam
434.5 Billion Lbs Water
2. TOTAL WATER IS CONDENSATE + EFFLUENT + LAKE + POND
3. FUTURE STEAM PRODUCTION 2018-2042 = 301.5 Billion Lbs
4. FUTURE WATER INJECTION 2018-2042 = 359.2 Billion Lbs



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: Chemical Waste Management – 3 Year Industrial Waste & Disposal Services Agreement for disposal at Kettleman Hills Landfill Location; Applicable to the following projects: For use by all NCPA Generation Services Facilities.

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Geothermal	

IMPACTED MEMBERS:		
All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>
<i>If other, please specify</i>		
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RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into an Industrial Waste & Disposal Services Agreement for disposal at the Kettleman Hills Landfill location, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over three years for use at all NCPA Generation Services facilities.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

Industrial waste disposal is required on a regular basis from the Geysers Geothermal Facility and from time to time at NCPA's Hydro and Combustion Turbine facilities.

FISCAL IMPACT:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA previously had an enabling agreement with Chemical Waste Management in Arlington, Oregon for hazardous waste disposal. The price for trucking to the Arlington, Oregon landfill is over three times as much, therefore, making the Arlington, Oregon landfill less cost efficient. NCPA seeks bids from as many qualified providers as needed. Bids awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Committee Review pending.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments: (2)

- Resolution
- Industrial Waste & Disposal Services Agreement

RESOLUTION 18-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING AN INDUSTRIAL WASTE & DISPOSAL SERVICES AGREEMENT WITH CHEMICAL WASTE MANAGEMENT

(reference Staff Report #xxx:18)

WHEREAS, industrial waste disposal at the Kettleman Hills Landfill location is periodically required by all Northern California Power Agency (NCPA) Generation Services facilities ; and

WHEREAS, Chemical Waste Management is a provider of these services; and

WHEREAS, NCPA seeks to enter into an Industrial Waste & Disposal Services Agreement with Chemical Waste Management to provide such services as needed at all NCPA Plant Facilities in an amount not to exceed \$1,500,000 over three years; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into an Industrial Waste & Disposal Services Agreement with Chemical Waste Management with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over three years for disposal services as need at all NCPA Generation Services facilities.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



INDUSTRIAL WASTE & DISPOSAL SERVICES AGREEMENT

COMPANY:

A WASTE MANAGEMENT COMPANY

Address:

City/State/Zip:

Signed:

Authorized Signature

Name:

Title:

Effective Date:

Date

CUSTOMER:

Address:

City/State/Zip:

Signed:

Authorized Signature

Name:

Title:

Term: //

Date

AGREEMENT

This INDUSTRIAL WASTE & DISPOSAL SERVICES AGREEMENT, consisting of the terms and conditions set forth herein, and Exhibit A, and/or Confirmation Letter(s) and the Profile Sheet(s) entered into from and after the date hereof from time to time (all of the foregoing being collectively referred to as the "Agreement"), is made as of the Effective Date shown above by and between the Customer named above, on its and its subsidiaries and affiliates behalf (collectively, "Customer") and the Waste Management entity named above ("the Company").

TERMS AND CONDITIONS

1. SERVICES PROVIDED. The Company and/or its affiliates will provide Customer with collection, management, transportation, disposal, treatment and recycling services ("Services") for Customer's non-hazardous Solid Waste, Special Waste, Hazardous Waste, and/or Recyclables, as described on Exhibit A and/or Confirmation Letter(s) and/or applicable Profile Sheets (collectively "Industrial Waste"). **"Solid Waste"** means garbage, refuse and rubbish including those which are recyclable but excluding Special Waste and Hazardous Waste. **"Special Waste"** includes polychlorinated biphenyl ("PCB") wastes, industrial process wastes, asbestos containing material, petroleum contaminated soils, treated/de-characterized wastes, incinerator ash, medical wastes, demolition debris and other materials requiring special handling in accordance with any applicable federal, state, provincial or local laws or regulations. **"Hazardous Waste"** means any hazardous, toxic, or radioactive substances, as such terms are defined by any applicable federal, state, provincial or local laws or regulations. **"Nonconforming Waste"** means waste that (a) is not in conformance with waste descriptions given by Customer under this Agreement, in an Exhibit A, Confirmation Letter(s) or the Profile Sheet incorporated herein; (b) is prohibited from being received, managed or disposed of at a transfer, storage or disposal facility used hereunder by federal, state or local law, regulation, ordinance, permit or other legal requirement; (c) is non-hazardous Solid Waste that contains regulated Special Waste or Hazardous Waste; (d) is or contains any infectious waste, radioactive, volatile, corrosive, flammable, explosive, biomedical, biohazardous material, regulated medical or hazardous waste or toxic substances, as defined pursuant to or listed or regulated under applicable federal, state or local law, except as stated on Exhibit A, the Profile Sheet or Confirmation Letter; or (e) contains information protected by federal, state or local privacy or data security laws, including but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA").

2. CUSTOMER WARRANTIES. Customer hereby represents and warrants that all Industrial Waste collected by or delivered to the Company shall be in accordance with waste descriptions given in this Agreement and shall not be or contain any Nonconforming Waste. When the Company handles Special or Hazardous Waste for Customer, Customer will provide the Company with a Generator's Waste Profile Sheet ("Profile Sheet") describing all Special or Hazardous Waste, and provide a representative sample of such waste on request. In the event this Agreement includes transportation by the Company, Customer shall, at the time of tender, provide to the Company accurate and complete documents, shipping papers or manifests as are required for the lawful transfer of the Industrial Waste under all applicable federal, state or local laws or regulations. Tender or delivery shall be considered nonconforming if not in accordance with this Section. Customer further represents and warrants that it will comply with all applicable laws, ordinances, regulations, orders, permits or other legal requirements applicable to the Industrial Waste. Customer shall provide the Company and its Subcontractors a safe work environment for Services performed on any premises owned or controlled by Customer.

3. TERM OF AGREEMENT. The term of this agreement shall be 36 months commencing on the effective date set forth above.

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4. INSPECTION; REJECTION OF WASTE. Title to and liability for Nonconforming Waste shall remain with Customer at all times. Company shall have the right to inspect, analyze or test any waste delivered by Customer. If Customer's Industrial Waste is Nonconforming Waste, Company can, at its option, reject Nonconforming Waste and return it to Customer or require Customer to remove and dispose of the Nonconforming Waste at Customer's expense. Customer shall indemnify, hold harmless (in accordance with Section 9) and pay or reimburse Company for any and all costs, damages and/or fines incurred as a result of or relating to Customer's tender or delivery of Nonconforming Waste or other failure to comply or conform to this Agreement, including costs of inspection, testing and analysis. Company also may reject any Industrial Waste that could adversely impact the receiving facility, or Company may terminate the Agreement or the applicable Exhibit A related to such Industrial Waste.

5. SPECIAL HANDLING; TITLE. If Company elects to handle, rather than reject, Nonconforming Waste, Company shall have the right to manage the same in the manner deemed most appropriate by Company given the characteristics of the Nonconforming Waste. Company may assess and Customer shall pay additional charges associated with delivery of Nonconforming Waste, including, but not limited to, special handling or disposal charges, and costs associated with different quantities of waste, different delivery dates, modifications in operations, specialized equipment, and other operational, environmental, health, safety or regulatory requirements. Title to and ownership of acceptable Industrial Waste shall transfer to Company upon its final acceptance of such waste.

6. COMPANY WARRANTIES. Company hereby represents and warrants that: (a) Company will manage the Industrial Waste in a safe and workmanlike manner in full compliance with all valid and applicable federal, state and local laws, ordinances, orders, rules and regulations; and (b) it will use disposal and recycling facilities that have been issued permits, licenses, certificates or approvals required by valid and applicable laws, ordinances and regulations necessary to allow the facility to accept, treat and/or dispose of Industrial Waste. Except as provided herein, Company makes no other warranties and hereby disclaims any other warranty, whether implied or statutory.

7. LIMITED LICENSE TO ENTER. When a Customer is transporting Industrial Waste to a Company facility, Customer and its subcontractors shall have a limited license to enter a disposal facility for the sole purpose of off-loading Industrial Waste at an area designated, and in the manner directed, by Company. Customer shall, and shall ensure that its subcontractors, comply with all rules and regulations of the facility, as amended. Company may reject Industrial Waste, deny Customer or its subcontractors entry to its facility and/or terminate this Agreement in the event of Customer's or its subcontractors' failure to follow such rules and regulations.

8. CHARGES AND PAYMENTS. Customer shall pay the rates ("Charges") set forth on Exhibit A or a Confirmation Letter, which may be modified as provided in this Agreement. Company reserves the right, and Customer acknowledges that it should expect Company to increase or add Charges payable by Customer hereunder during the Term. The rates may be adjusted by Company to account for: any changes or modifications to, or differences between, the actual equipment and Services provided by Company to Customer and those specified on Exhibit A; any increase in or to recoup all or any portion of, disposal, transportation, processing, fuel or environmental compliance fees or costs, or recovery of the Company's and affiliates' costs associated with host community fees, waste disposal taxes and similar charges paid to municipal or other governmental authorities or agencies to engage in recycling and waste collection, transfer, processing, disposal and treatment; any change in the composition, amount or weight

of the Industrial Waste collected by Company from Customer's service location(s) from what is specified on Exhibit A (including for container overages or overflows) of the Industrial Waste; increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state or federal laws or regulations, including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters. Company also reserves the right to charge Customer additional charges for Services provided by Company to Customer, whether requested or incurred by Customer, including, but not limited to, dig out, minimum load charges, profile approval charges, all at such rates that Company is charging its customers at such time. The Company may also increase the charges by an amount equal to the average percentage increase for the previous twelve-month period in the Consumer Price Index for Water & Sewer & Trash Collection Services, as published by the U.S. Department of Labor, with the amount of the increase based on the most current information available from the U.S. Department of Labor 30 days prior to the date of the increase, unless the parties have otherwise agreed to a different CPI as stated in an Exhibit A. Increases in Charges for reasons other than as provided above require the consent of Customer which may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, payment of the invoice reflecting such changes, and written notice to Customer of any such changes and Customer's failure to object to such changes, which shall be deemed to be Customer's affirmative consent to such changes. Customer acknowledges and agrees that any increased Charges under this section are not represented to be solely an offset or pass through of Company's costs. All rate adjustments as provided above and in Section 5 shall take effect upon notification from Company to Customer. Customer shall pay the rates in full within thirty (30) days of the invoice date.

Any Customer invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Customer check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Customer acknowledges that any late charge charged by Company is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to Company for late payment. If payment is not made when due, Company retains the right to suspend Services until the past due balance is paid in full. In addition to full payment of outstanding balances, Customer shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, Company may immediately terminate this Agreement for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 14.

9. INDEMNIFICATION. The Company agrees to indemnify, defend and save Customer harmless from and against any and all liability (including reasonable attorneys' fees) which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by Company's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Company or its employees, which occurs (1) during the collection or transportation of Customer's Industrial Waste by Company, or (2) as a result of the disposal of Customer's Industrial Waste, after the date of this Agreement, in a facility owned by a subsidiary or affiliate of the Company provided that the Company's indemnification obligations will not apply to occurrences involving Nonconforming Waste.

Customer agrees to indemnify, defend and save the Company harmless from and against any and all liability (including reasonable attorneys' fees) which the Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by Customer's breach of this Agreement or by any negligent act, negligent omission or willful misconduct of the Customer or its employees, agents or contractors in the performance of this Agreement or Customer's use, operation or possession of any equipment furnished by the Company.

Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance of this Agreement except for third party claims related to violations of law.

10. UNCONTROLLABLE CIRCUMSTANCES. Except for the obligation to make payments hereunder, neither party shall be in default for its failure to perform or delay in performance caused by events beyond its reasonable control, including, but not limited to, strikes, riots, imposition of laws or governmental orders, fires, acts of God, and inability to obtain equipment, permit changes and regulations, restrictions (including land use) therein, and the affected party shall be excused from performance during the occurrence of such events.

11. RECYCLING SERVICES. Where recycling services are provided, the following will apply as specifications. Single stream recyclable materials will consist of Customer's entire volume of clean, dry, paper or cardboard without wax liners; clean, dry and empty aluminum food and beverage containers, ferrous (iron) or steel cans, aerosol cans, and rigid container plastics #1-7, including narrow neck containers and tubs, but excluding foam and film plastics. No individual items may be excluded from the recycling container. Glass may be included only with specific approval of Company. Any material not set forth above is a non-recyclable. Single stream recyclables may contain up to 10% non-recyclables. Wastepaper, cardboard, plastics, and metals shall be provided in accordance with the most current ISRI Scrap Specifications Circular and any amendments thereto or replacements thereof. For all other recyclables, including construction and demolition debris as so defined under applicable law or regulation, Customer shall provide recyclables in accordance with industry standards. Recyclables may not contain any Hazardous Waste, Non-Conforming Waste, or Special Waste. In the event that the recyclables do not meet the specifications, Customer shall have the sole responsibility for any resulting settlement or adjustments including price reductions, transportation, and disposal costs. In the event costs of processing recyclables exceeds the commodity value, a recyclable material offset will be charged per ton. Company reserves the right, in its sole discretion, upon notice to Customer, to discontinue acceptance of any category of Recyclables as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials which are subject to this Agreement. Title to Recyclables provided by Customer to Company is transferred

to Company upon Company's receipt or collection unless otherwise provided in this Agreement or applicable law.

12. ASSIGNMENT & SUBCONTRACTING. This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Customer acknowledges and agrees that the Company may utilize unaffiliated subcontractors that are not affiliates of Company to provide the Services to Customer.

13. ENTIRE AGREEMENT. This Agreement and its exhibits and attachments represent the entire understanding and agreement between the parties relating to the Services and supersedes any and all prior agreements, whether written or oral, between the parties regarding the same; provided that, the terms of any national service agreement or lease agreement for compactors or specialty equipment between the parties shall govern over any inconsistent terms herein.

14. TERMINATION; LIQUIDATED DAMAGES. Company may immediately terminate this Agreement, (a) in the event of Customer's breach of any term or provision of this Agreement, including failure to pay on a timely basis, or (b) if Customer becomes insolvent, the subject of an order for relief in bankruptcy, receivership, reorganization dissolution, or similar law, or makes an assignment for the benefit of its creditors or if Company deems itself insecure as to payment ("Default"). Notice of termination shall be in writing and deemed given when delivered in person or by certified mail, postage prepaid, return receipt requested. In the event Customer terminates this Agreement prior to the expiration of the Term ("Term") for any reason other than as set forth in Section 3, or in the event Company terminates this Agreement for Customer's default, Customer shall pay any outstanding fees for waste transported or disposed of by Company.

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15. EQUIPMENT. All equipment furnished by Company shall remain its property; however

Customer shall have care, custody and control of the equipment and shall be liable for all loss or damage to the equipment and for its contents while at Customer's service location(s). Customer will not overload, move or alter the equipment, or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, Company's equipment shall be in the condition in which it was provided, normal wear and tear excepted. Customer shall provide safe and unobstructed access to the equipment on the scheduled collection day. Company may suspend Services or terminate this Agreement in the event Customer violates any of the requirements of this provision. Customer shall pay, if charged by Company, any additional Charges, determined by Company in its sole discretion, for overloading, moving or altering the equipment or allowing a third party to do so, and for any service modifications caused by or resulting from Customer's failure to provide access. Customer warrants that Customer's property is sufficient to bear the weight of Company's equipment and vehicles and agrees that Company shall not be responsible for any damage to Customer's pavement or any other surface resulting from the equipment or Services.

16. CONFIDENTIALITY. Except as required by law, including specifically the

California Public Records Act, the parties agree that the rates set forth on

Exhibit A, a Confirmation Letter, including any adjustments thereto, and any other pricing information shall be considered confidential and shall not be disclosed to third parties without the other party's written approval.

17. MISCELLANEOUS. (a) The prevailing party will be entitled to recover reasonable fees

and court costs, including attorneys' and expert fees, in enforcing this Agreement. In the event Customer fails to pay Company all amounts due hereunder, Company will be entitled to collect all reasonable collection costs or expenses, including reasonable attorneys' and expert fees, court costs or handling fees for returned checks from Customer; (b) The validity, interpretation and performance of this Agreement shall be construed in accordance with the law of the state in which the Services are performed; (c) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be deemed severable from and shall not affect the remainder of this Agreement, which shall remain in full force and effect; (d) Customer's payment obligation for Services and the Warranties and Indemnification made by each party shall survive termination of this Agreement.

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Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A
PRICING

Profile Number	Common Waste Name	Management Facility	Volume	Expiration Date	Treatment Methods	Pricing
CA607928	SOIL/SLUDGE FROM GEOTHERMAL POWER PLANT	Kettleman Hills	200 Tons	2018-06-17	Direct Landfill	\$70/Ton (\$1,000 Min/Load) + Taxes, 13% Fuel & Env and 3.6% RCR
CA607929	SULFUR SLUDGE/CAKE (NON RCRA) * RCRA EXEMPT	Kettleman Hills	150 Tons	2019-06-20	Direct Landfill	\$70/Ton (\$1,000 Min/Load) + Taxes, 13% Fuel & Env and 3.6% RCR
CA607930	SULFUR SLUDGE CAKE	Kettleman Hills	20 Cubic Yards		Solidification/Liquifix	\$245/Ton (\$1,000 Min/Load) + Tax,13% Fuel & Env and 3.6% RCR
CA607931	OILY SOLIDS AND DEBRIS- GEOTHERMAL WASTE* RCRA EXI	Kettleman Hills	120 Cubic Yards	2019-07-02	Direct Landfill	\$70/Ton or Yd (\$1,000 Min/Load) + Taxes, 13% Fuel & Env and 3.6% RCR



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: Univar USA, Inc. – Five Year Multi-Task Agreement For Purchase of Equipment, Materials And Supplies of various chemicals; Applicable to the following projects: For use by all NCPA Plant Facilities – Geysers Geothermal, Hydro, and Lodi.

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Geothermal	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<input type="checkbox"/>	
City of Roseville	<input type="checkbox"/>	
City of Santa Clara	<input type="checkbox"/>	
City of Shasta Lake	<input type="checkbox"/>	
City of Ukiah	<input type="checkbox"/>	
Plumas-Sierra REC	<input type="checkbox"/>	
Port of Oakland	<input type="checkbox"/>	
Truckee Donner PUD	<input type="checkbox"/>	
Other	<input type="checkbox"/>	
<i>If other, please specify</i>		
<hr/>		
<hr/>		

RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into a Multi-Task Agreement For Purchase Of Equipment, Materials and Supplies for the purchase of various chemicals, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years for use at all NPCA Plant Facilities – Geysers Geothermal, Hydro and Lodi.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

Purchase of various chemicals is required from time to time for use at all NPCA Plant Facilities – Geysers Geothermal, Hydro, and Lodi.

FISCAL IMPACT:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements for similar services with CellMark and Dow Chemical. NCPA seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Committee Reviews pending.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments: (2)

- Resolution
- Multi-Task Agreement For Purchase Of Equipment, Materials And Supplies

RESOLUTION 18-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK AGREEMENT FOR PURCHASE OF EQUIPMENT, MATERIALS AND SUPPLIES WITH UNIVAR USA, INC

(reference Staff Report #xxx:18)

WHEREAS, purchase of various chemicals are required from time to time for use by all Northern California Power Agency (NCPA) Plant Facilities – Geysers Geothermal, Hydro, and Lodi; and

WHEREAS, Univar USA, Inc. is a provider of these products; and

WHEREAS, NCPA seeks to enter into a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies to provide such services as needed at all NCPA Plant Facilities – Geysers Geothermal, Hydro, and Lodi in an amount not to exceed \$1,500,000 over five years; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter a Multi-Task Agreement for Purchase of Equipment, Materials and Supplies with Univar USA, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,500,000 over five years for purchase of various chemicals, for use at all NCPA Plant Facilities – Geysers Geothermal, Hydro, and Lodi.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda			
San Francisco BART			
Biggs			
Gridley			
Healdsburg			
Lodi			
Lompoc			
Palo Alto			
Port of Oakland			
Redding			
Roseville			
Santa Clara			
Shasta Lake			
Truckee Donner			
Ukiah			
Plumas-Sierra			

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
AGREEMENT FOR PURCHASE OF
EQUIPMENT, MATERIALS AND SUPPLIES
BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
UNIVAR USA INC.**

This Agreement for Purchase of Equipment, Materials and Supplies ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency, with its main offices located at 651 Commerce Drive, Roseville, CA, 95678-6420 ("Agency") and Univar USA Inc., ("Supplier"), whose principal office is located at 3075 Highland Parkway, #200, Downers Grove, IL 60515 (together sometimes referred to as the "Parties") as of _____, 2018 (the "Effective Date").

Section 1. SCOPE. In accordance with the terms and conditions set forth in this Agreement, Supplier is willing to deliver the equipment, materials and supplies ("Goods") described in Exhibit A, attached hereto and incorporated herein to the designated Project Site, DDP, when requested by the Agency. Supplier shall be responsible at its sole expense for delivering the Goods to the designated Project Site and title and risk of loss shall not pass until the Agency accepts delivery at this Site. Such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event of a conflict or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

Section 2. PROJECT SITE. Goods provided under this Agreement by Supplier may include Goods delivered directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement The "designated Project Site", as that term is used herein, shall mean the site for delivery, DDP.

Section 3. TERM OF AGREEMENT. This Agreement shall begin upon Effective Date and shall end on the earlier of five (5) years after the Effective Date or when Supplier has provided to Agency the Goods described in Exhibit A. Either party may terminate this Agreement at any time upon 60 days' prior written notice.

Section 4. REQUEST FOR GOODS. At such time that Agency determines to have Supplier provide Goods under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Goods to be provided ("Requested Goods"), may include a not-to-exceed cap or monetary cap on the Requested Goods and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Goods shall be delivered. Supplier shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Supplier chooses not to provide the Requested Goods. If Supplier agrees to provide the Requested Goods, begins to provide the Requested Goods, or does not respond within the seven day period specified, then Supplier will have agreed to provide the Requested Goods on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 5. COMPENSATION. Agency hereby agrees to pay Supplier for the Goods an amount not to exceed ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000) as total compensation under this Agreement, which includes all shipping, taxes (if applicable),

insurance, delivery charges, and any other fees, costs or charges. This dollar amount is not a guarantee that Agency will pay that full amount to the Supplier, but is merely a limit of potential Agency expenditures under this Agreement.

- 5.1 Invoices.** Supplier shall have ninety (90) days after the delivery of Goods to invoice Agency for all amounts due and outstanding under this Agreement. Supplier shall include the number of the Purchase Order which authorized the Goods for which Supplier is seeking payment. Amounts owing to or payable by either party under this Agreement shall be deemed finally reconciled on the first anniversary of the final delivery under this Agreement and any outstanding rights of either party to receive overpayments or under payments including rights to unclaimed credits or refunds shall expire on such date.. All invoices shall be submitted to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

- 5.2 Payment.** Agency shall pay all invoices within thirty (30) days of the receipt of any invoice for Goods satisfactorily received.
- 5.3 Timing for Submittal of Final Invoice.** Supplier shall have ninety (90) days after delivery of the Requested Goods to submit its final invoice for the Requested Goods. In the event Supplier fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Supplier is deemed to have waived its right to collect its final payment for the Requested Goods from Agency.

Section 6. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Supplier, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 6.1 Workers' Compensation.** If Supplier employs any person, Supplier shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Supplier with limits of not less than one million dollars (\$1,000,000) per accident.
- 6.2 Automobile Liability.** Supplier shall maintain automobile liability insurance for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle, whether or not owned by the Supplier, on or off Agency premises. The policy shall provide a minimum limit of \$3,000,000 per each accident, with \$5,000,000 aggregate. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment utilized in the transport of the Goods to the Agency's Project Site.

6.3 Commercial General Liability (CGL). Supplier shall maintain commercial general liability coverage covering Goods, including product liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Supplier in regard to this Agreement with not less than \$3,000,000/\$5,000,000 aggregate for bodily injury and property damage, on an occurrence basis. No endorsement shall be attached limiting the coverage.

6.4 General Liability/Umbrella Insurance. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

6.5 All Policies Requirements.

6.5.1 Verification of Coverage. Prior to beginning any work under this Agreement, Supplier shall, at the sole option of the Agency, provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the automobile liability policy and the CGL policy adding the Northern California Power Agency as an Additional Insured and declaring such insurance primary in regard to work performed pursuant to this Agreement and that Agency's insurance is excess and non-contributing.

6.5.2 Notice of Reduction in or Cancellation of Coverage. Supplier agrees to provide at least thirty (30) days prior written notice of any cancellation or reduction in scope or amount of the insurance required under this Agreement.

6.5.3 Waiver of Subrogation. Supplier agrees to waive subrogation which any insurer of Supplier may acquire from Supplier by virtue of the payment of any loss. Supplier agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

6.6 Pollution Insurance. If Contractor's Work involves its transporting hazardous materials, then Contractor shall obtain and maintain Contractors' Pollution Liability Insurance of not less than two million dollars (\$2,000,000) for any one occurrence and not less than four million dollars (\$4,000,000) aggregate. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on "an occurrence" basis. In addition, Contractor shall ensure that such insurance complies with any applicable requirements of the California Department of Toxic Substances Control and California regulations relating to the transport of hazardous materials (Health & Safety Code sections 25160 *et seq.*).

"Hazardous Materials" means any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed, or controlled pursuant to

any national, state, or local law, statute, ordinance, directive, regulation, or other legal requirement of the United States.

Section 7. WARRANTY. Supplier warrants that all Goods meet Supplier's specifications at the time of delivery; comply with applicable federal, state and local laws and regulations; are new, of good quality and workmanship, and are not subject to any liens or encumbrances. SUPPLIER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

If the Goods provided by Supplier under this Agreement fail to meet Supplier's warranty, Supplier shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction. Any claim for shortage or non-conforming Products must be made in writing to Seller within 30 days after Buyer's receipt of the Product. Any claim for non-delivery of Product must be made within 30 days after the date upon which the Product was to be delivered.

Section 8. INDEMNIFICATION AND SUPPLIER'S RESPONSIBILITIES.

8.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Supplier from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Supplier acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

8.2 Scope. Supplier shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Supplier, its officers, officials, agents, and employees, except as caused by the sole negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Supplier's liability is exclusively limited to the purchase price of the Goods or the applicable insurance limits, whichever is greater, that are the subject of Agency's claim. Neither party is liable for consequential, special or incidental damages.

8.3 Transfer of Title. Supplier shall be deemed to be in exclusive possession and control of the Goods and shall be responsible for any damages or injury caused thereby, including without limitation any spills, leaks, discharges or releases of any Goods, until Agency accepts delivery at its Site. For the purposes of this Agreement, such acceptance shall occur after Supplier or its agents complete transfer of the Goods into appropriate containers, machinery, storage tanks or other storage apparatus identified by NCPA. In the event a spill, leak, discharge or release requires notification to a federal, state or local regulatory agency,

Supplier shall be responsible for all such notifications if the spill or release occurs prior to Agency's acceptance of the Goods. Should Supplier be required to remedy or remove Goods as a result of a leak, spill, release or discharge of Goods into the environment at Agency's Site or elsewhere, Supplier agrees to remediate, remove or cleanup Agency's Site to a level sufficient to receive a "No Further Action Required" or "Closure Letter" from the appropriate regulatory authority.

Section 9. MISCELLANEOUS PROVISIONS.

- 9.1 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Supplier and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 9.2 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 9.3 Compliance with Applicable Law.** Supplier shall comply with all applicable federal, state, and local laws, rules and regulations in regard to this Agreement and the Goods supplied hereunder.
- 9.4 Construction of Agreement.** The Parties agree that the usual construction of an agreement against the drafting party shall not apply here.
- 9.5 Supplier's Status.** Supplier is an independent contractor and not an employee or agent of NCPA.
- 9.6 Non-assignment.** Supplier may not assign this Agreement without the prior written consent of NCPA, which shall not be unreasonably withheld.
- 9.7 Governing Law.** This Agreement and all matters pertaining to it, shall be governed by the laws of the State of California and venue shall lie in Placer County or in the county to which the Goods are delivered.
- 9.8 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 9.9 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

9.10 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

9.11 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

9.12 Conflict of Interest. Supplier may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Supplier in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Supplier shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

9.13 Contract Administrator. This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

9.14 Notices. Any written notice to Supplier shall be sent to:

Univar USA Inc.
Attn: Craig Colbert
2256 Junction Ave.
San Jose, CA 95131-1216

With a copy to:

Univar USA, Inc.
Attn: Legal & Corporate Affairs
17411 NE Union Hill Road
Redmond, WA 98052

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

- 9.15 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Supplier agree to resolve the dispute in accordance with the following:
- 9.15.1** Each party shall designate a senior management or executive level representative to negotiate any dispute.
 - 9.15.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 9.15.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 9.15.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 9.15.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 9.15.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*
- 9.16 Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Supplier's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Supplier's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Supplier's Proposal (if any), the Purchase Order shall control.
- 9.17 Certification as to California Energy Commission.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit B.

- 9.18 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Supplier shall, at the same time it executes this Agreement, execute Exhibit C.
- 9.19 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties.
- 9.20 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

UNIVAR USA INC.

Date: _____

Date: _____

RANDY S. HOWARD, General Manager

SARA STEWART, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane Luckhardt, General Counsel

EXHIBIT A

PURCHASE LIST

As requested by Agency, Supplier shall provide the following listed Goods, but not limited to the following, as requested by Agency at any one of its facility locations:

Chemical
Peroxide
Caustic Soda 15%
Soda Ash Dense
Lime 90%
Mag Ox 36%
Sulfuric Acid 93%
Sodium Hypochlorite 12.5% (Bleach)
Magnesium Sulfate 30%
Sodium Bisulfite 12% (Nalco PC?408)
Phosphoric Acid 70% (Nalco PC 185)
Aqua Ammonia
Sodium Hydroxide 15%
Additional products not listed above to be provided as requested in writing by NCPA facilities.

Additional products not listed above to be provided as requested in writing by NCPA facilities.

Supplier's deliveries shall be made by a vehicle suitable constructed to contain chemicals meeting Agency's product specifications. All delivery vehicles shall be labeled and constructed to meet all requirements of the California State Highway Patrol, the Interstate Commerce Commission and any jurisdictions having control over said delivery truck operations.

NCPA acknowledges that Supplier's chemical pricing may be subject to change. Pricing for goods shall be quoted by Supplier at the time the product is requested. Total compensation for all tasks, including all chemicals delivered under this Agreement, shall not exceed the amount as set forth in Section 5 (Compensation) of this Agreement.

EXHIBIT B

CERTIFICATION

Affidavit of Compliance for Suppliers

I, _____

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

do hereby certify that the below-named company has prepared and implemented security plans in conformity with 49 CFR 172, subpart I and has conducted employee background investigations in conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: Siemens Energy, Inc. – Five Year Multi-Task General Services Agreement for T3000 maintenance and support services; Applicable to the following projects: NCPA Lodi Energy Center and Geothermal Facility Locations, City of Redding and City of Roseville

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members <input type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input checked="" type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>
<i>If other, please specify</i>		
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RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Siemens Energy, Inc. for T3000 maintenance and support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$3,500,000 over five years for use at NCPA Lodi Energy Center (LEC) and Geothermal (GEO) facilities as well as the City of Redding and the City of Roseville.

It is recommend to place this item on the Commission Consent Calendar.

BACKGROUND:

In February 2016, a Power Plant Working Group was created which includes members from NCPA, City of Redding, City of Roseville and Silicon Valley Power. The group meets quarterly to discuss safety, environmental and plant technical issues. During these discussions, it was discovered that the LEC, GEO, City of Redding and City of Roseville facilities utilize the Siemens T3000 Control System. T3000 maintenance and support services are required from time to time related to project support at NCPA LEC and GEO facilities as well as the City of Redding and the City of Roseville. By collectively establishing one agreement with Siemens for these services, all of the facilities will benefit from discounted pricing on services as well as parts purchases.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$3,500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Siemens Energy, Inc.

RESOLUTION XX-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH SIEMENS ENERGY, INC.

(reference Staff Report #XXX:XX)

WHEREAS, T3000 maintenance and support services are periodically required by the Northern California Power Agency (NCPA) Lodi Energy Center and Geothermal facilities, as well as the City of Redding and the City of Roseville; and

WHEREAS, Siemens Energy, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Siemens Energy, Inc. to provide such services as needed at NCPA Lodi Energy Center and Geothermal facility locations, as well as the City of Redding and the City of Roseville, in an amount not to exceed \$3,500,000 over five years; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Siemens Energy, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$3,500,000 over five years for T3000 maintenance and support services for use at NCPA Lodi Energy Center and Geothermal facilities, as well as the City of Redding and the City of Roseville.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
SIEMENS ENERGY, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Siemens Energy, Inc., a Delaware corporation with its office located at 1345 Ridgeland Parkway, Suite 116, Alpharetta, GA 30004 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2018 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members the City of Redding and City of Roseville.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** three million five hundred thousand dollars (\$3,500,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction;
- At Agency's option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Payment of Taxes. Contractor is solely responsible for the payment of all employment taxes, incurred under this Agreement. The dollar amount set forth and authorized in a Purchase Order does not include any state or local taxes. Such taxes are for the account of Agency and Agency agrees to pay any such tax when due or to reimburse Contractor consistent with the payment terms set forth herein. Should Agency be exempted from any such tax, it shall provide Contractor certification thereof no later than the effective date of the Purchase

Order. Contractor shall split labor vs. material costs on any invoice submitted so it is clear what items are taxable and shall identify any taxable items.

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

2.5 Timing for Submittal of Final Invoice. Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

Section 4. INSURANCE REQUIREMENTS. Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 Workers' Compensation. If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$2,000,000 per occurrence/\$4,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of \$1,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and

mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 General Liability/Umbrella Insurance. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 Professional Liability Insurance. Contractor shall maintain professional liability insurance appropriate to Contractor's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Contractor's errors and omissions. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 Pollution Insurance. Not Applicable.

4.5 All Policies Requirements.

4.5.1 Verification of coverage. Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.5.2 Notice of Reduction in or Cancellation of Coverage. Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.5.3 Higher Limits. If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.

4.5.4 Additional Certificates and Endorsements. If Contractor performs Work for Agency members the City of Redding and/or City of Roseville pursuant to this Agreement, Contractor shall provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.5.1,

naming the specific Agency member, City of Redding and/or City of Roseville, for which the Work is to be performed.

4.6 Waiver of Subrogation. Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

4.7 Contractor's Obligation. Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

5.2 Scope. Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action from and against claims for personal injury (including disease, sickness, and death) and for physical damage to or loss of property to the extent caused by the acts or omissions or willful misconduct of Contractor, its officials, officers, employees, or agents. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

In no event shall Contractor's obligations under this indemnity provision apply to any claim by a customer of Agency for voltage or frequency fluctuation or service interruption of any kind, or to any claim by any third party for failure of Agency to provide power or capacity under any contract, and provided further that in no event shall the term "third party" as used in this paragraph apply to any affiliate or lender of Agency or any transferee of some or all of the Work.

The Party seeking the indemnification shall promptly give written notice to the other Party of any third party action for which indemnification is being sought and provide the other Party with the opportunity to participate in all settlement negotiations respecting such claim.

5.3 Transfer of Title. Not Applicable.

Section 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Contractor's failure to secure workers' compensation insurance for its employees, agents, or subcontractors.

Contractor agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Contractor shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Contractor.

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
- 6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws in effect at the time of contract execution and in effect when any Purchase Order is issued, which are applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will

maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to be in their name to practice their respective professions.

- 7.4 Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular,

Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor.

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof). Contractor will also be entitled to any additional expense incurred by reason of termination or cancellation of written agreements between Contractor and its suppliers. Contractor will make every reasonable effort to minimize such costs upon termination. Payments made by Agency and received by Contractor prior to the date of termination will be credited against the amount due.

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

- 8.4 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, and provided Contractor has not substantially commenced cure of such default within thirty (30) days after receipt of written notice from Agency of such material default Agency's remedies shall include, but not be limited to, the following:

- 8.4.1** Immediately terminate the Agreement;
- 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 8.4.3** Retain a different Contractor to complete the Work not finished by Contractor; and/or
- 8.4.4** Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work. Agency shall use its best efforts to mitigate the cost for completion of such Work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 Confidential Information and Disclosure.**
- 9.4.1 Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.
- 9.4.2 Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving

Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. PROJECT SITE.

10.1 Operations at the Project Site. Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a

Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or

workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same.

11.3 Assignment of Warranties. Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

11.4 Exclusivity of Warranties and Remedies. The only warranties and guarantees made by Contractor are those expressly enumerated in this Section 11. Any other statements of fact or descriptions whether expressed in the Purchase Order, or any attachments or Appendices thereto, or in any quotations, proposals, specifications, drawings or manuals, or other documentation concerning the Scope of Work, whether in electronic form or hardcopy, shall not be deemed to constitute a warranty or guarantee of the Work or any part thereof. THE WARRANTIES AND GUARANTEES PROVIDED IN THIS SECTION 11 ARE EXCLUSIVE AND NO OTHER WARRANTIES OR GUARANTEES OR CONDITIONS OF ANY KIND APPLY, WHETHER STATUTORY, EXPRESS, OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE), SHALL APPLY. Correction of defects in accordance with this Section 11 or a refund in accordance with this Section 11 in the manner and during the period provided herein shall constitute complete fulfillment of Agency's exclusive remedy for all the liabilities or responsibilities of Contractor and its subcontractors to Agency for defective or nonconforming Equipment, Software, or Work, whether the claims of Agency are based in contract, in tort (including negligence and strict liability), or otherwise. In the event that physical loss or damage to the Agency's property results from the failure of a defective portion of the Work or Equipment, Contractor's liability under this Section shall not exceed the cost of performing the warranty remedy, either by replacement, repair, modification, re-performance or correction which Contractor would have had to perform if such warranty remedy had been carried out immediately prior to the occurrence of the physical loss or damage. Contractor's responsibility for physical loss or damage to Agency property shall be exclusively as set out in Section 13.19.

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may

be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 13.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:
- Siemens Energy, Inc.
Attention: Tim Haines
1345 Ridgeland Parkway, Suite 116
Alpharetta, GA 30004

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be

concluded within fifteen (15) days from the commencement of the mediation.

13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

13.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

13.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

13.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, City of Redding or City of Roseville, (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

13.16 Force Majeure. Contractor will not be liable for failure to perform any obligation or delay in performance resulting from or contributed to by any reasonably unforeseeable cause that is beyond the reasonable control of Contractor or its subcontractors including without limitation any act of God; act of civil or military authority; act of war whether declared or undeclared; act of terrorism; act (including delay, failure to act, or priority) of any governmental authority or Agency; civil disturbance; insurrection or riot; sabotage; fire; inclement and highly unusual weather conditions for the respective location and time of year; earthquake; flood; strike; work stoppage or other labor difficulty; embargo; car shortage; fuel or energy shortage; delay or accident in shipping or transportation; or failure or delay beyond its reasonable control in obtaining necessary

manufacturing facilities, labor, necessary import or export licenses or materials from usual sources ("Force Majeure Event"). Notwithstanding the foregoing and for the avoidance of doubt, the following shall not be considered a Force Majeure Event: economic hardship; lack of money or credit; loss of profit or loss of return on investment; changes in commodity prices and the price of raw materials, fuel and supplies; changes in labor costs, wages and benefits; changes in exchange rates; Contractor's inability to perform and complete the work for the Purchase Order price.

In the event of a delay in performance excusable under this Article, the date of delivery or time for performance of the work will be extended by a period of time reasonably necessary to overcome the effect of such delay.

If a Force Majeure Event occurs, the claiming party shall promptly notify the other party of the occurrence of that Force Majeure Event, its effect on performance, and how long the claiming party expects it to last. Thereafter the claiming party shall update that information as reasonably necessary. During a Force Majeure Event, the claiming party shall use reasonable efforts to resume its performance under this Agreement.

- 13.17 Limitation of Liability.** The aggregate liability of Contractor arising out of the performance or nonperformance of obligations in connection with a Purchase Order or the performance or nonperformance of Work under a Purchase Order, under any theory of recovery, whether based in contract, tort (including negligence and strict liability), or otherwise, shall not exceed an amount equal to one hundred percent (100%) of the amount of the Purchase Order or the amount of the applicable insurance specified in Section 4, whichever is greater.

In no event, whether based in contract, tort (including negligence and strict liability), or otherwise, shall either party be liable for damages for loss of profits or revenue or the loss of use of either; damage to the Work after risk of loss has transferred to Agency; loss by reason of Plant shutdown or inability to operate at capacity; damage to or loss of Agency's property or equipment (except as otherwise provided for and subject to the limitations stated in Section 13.19); costs of replacement power or capital; claims of Agency's customers; inventory or use charges; or incidental, indirect, special or consequential damages of any other kind or nature, whatsoever. The waivers and disclaimers of liability, releases from liability, and limitations on liability expressed in this Section 13.16 shall extend to Agency, Contractor and its subcontractors, affiliates, successors and assigns, and their respective partners, principals, shareholders, directors, officers, employees, and agents.

- 13.18 Delivery of Title and Risk of Loss.** Delivery of each item of Equipment shall occur for all shipments, arrival at the Site entrance, ready to be unloaded (hereinafter referred to as "Delivery" or "Delivery Point"). Provided that all payments are current in accordance with the Exhibit B, legal and equitable title and risk of loss for the Equipment, except for Software, shall pass to Agency on a

“Delivered Duty Paid” (“DDP”) basis, as that term is defined by the International Commercial Terms 2010.

Title to and right of possession of any Software licensed hereunder shall remain with Contractor, or its licensor, except that Agency, City of Redding and City of Roseville shall have the right of possession and use of the Software provided hereunder at no cost for the term of the corresponding license provided herein, so long as no breach of the Agreement has been made by and singularly applicable to Agency, City of Redding, and City of Roseville and all payments due Contractor have been paid. Nothing in the Agreement shall be construed as giving Agency, City of Redding and City of Roseville any right to sell, assign, lease or in any other manner transfer or encumber Contractor's, or its licensor's ownership of the Software, or as limiting Contractor, or its licensors, from using and licensing the Software to any third party.

13.19 Contractor’s Responsibility for Damage to Agency’s Property.

- 13.19.1** Subject to the provisions stated in this Section 13.19 below, if sudden and accidental damage to Agency property is caused by (1) the failure of any Equipment or Work provided by Contractor pursuant to this Agreement to conform to the corresponding warranties provided in Sections 11.1 (Equipment) and 11.3 (Work), or (2) a negligent act or omission of Contractor during performance of the Work, then for each such event Contractor shall credit the Agency for the actual direct costs incurred by the Agency to the extent that such property damage was caused by such warranty non-conformance or negligence.
- 13.19.2** Seller’s obligations under this Section 13.19 shall be limited on a per event basis and in the aggregate to the lesser of:
(a) the actual direct cost incurred by the Agency to repair the property damage, including uncovering, gaining access to, removal and replacement costs, to be substantiated to the reasonable satisfaction of Contractor, or (b) an amount of Two million Dollars (U.S. \$2,000,000).
- 13.19.3** Except as specifically set forth in this Section 13.19, in no event shall Contractor have any responsibility or liability, under any theory of recovery, whether based in contract, tort (including negligence and strict liability), or otherwise, for any loss or damage to Agency's property as a result of (1) the failure of any Equipment or Work provided by Contractor pursuant to this Agreement to conform to the corresponding warranties provided in Sections 11.1 (Equipment) and 11.3 (Work), or (2) a negligent act or omission of Contractor during performance of the Work.

13.20 Software License. Contractor grants to Agency, City of Redding and City of Roseville a nonexclusive, nontransferable license to utilize the Software furnished hereunder. Such license is limited to Agency's, City of Redding's and City of Roseville's internal use at or for the unit with which such Software is incorporated. All title and ownership of the Contractor-furnished Software, including, without limitation, the copyright to such software, shall remain exclusively with Contractor. Agency, City of Redding and City of Roseville may make a backup copy of the Software to replace a damaged original. Agency shall not itself, or with the assistance of others, reverse compile, reverse engineer, or in any other manner attempt to decipher in whole or in part the logic or coherence of any Software licensed hereunder. Third party Software provided by Contractor may be subject to a separate license agreement and /or registration requirements and limitations on copying and use.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

SIEMENS ENERGY, INC.

Date_____

Date_____

RANDY S. HOWARD, General Manager

JEFF MILLER, Director for North America

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A
SCOPE OF WORK

Siemens Energy, Inc. shall provide Long Term Service Plan service as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, City of Redding and City of Roseville.

Services to include, but not be limited to the following:

Lodi, Geysers, Roseville & Redding Plant Systems DCS Architecture Matrix

Plant	Thin Clients	App. SVS.	Auto. CPU	Com. Svs.	I/O
Geysers	8	2	2	4	1700
Roseville	5	1	4	2	5200
Redding	14	1	10	4	5500
Lodi	6	1	5	5	3200

*Due to the relative age of the T3000 DCS version at the Geysers and Lodi Plant, in addition to the HMI Servers, the Automation CPU's, Communication Servers and the UPS's have to be replaced as well.

Entitlements

Lodi Energy Center Customer Service Agreement Five (5) - Year Program

Base Services

- I&C Customer Portal, SPPA-View Access
- Lifecycle Reporting
- Usage and Summary Reporting

• Remote System Administrative Checks

• Parts Exchange

- 25% discount on parts purchased

• Remote Expert Center (REC) hours

- 40 Hours (20% discount off of list price for additional hours)
- 20% rollover

• On-Site Field Service/Technical Support

- 10% discount on hours purchased

• Cyber Security Services

- Malware and Security Patch Updates

- **Class Training Sessions**

- 2 Training Sessions per year (5% discount off of catalog pricing for additional training)

- **Version Upgrade**

- Upgrade to latest SPPA-T3000 including all required HW/SW and onsite labor/ travel for install
- One within service contract term
- Scheduled between Spring 2019 and Fall 2021

Geysers Plant 1 and 2 Customer Service Agreement Five (5) - Year Program

Base Services

- I&C Customer Portal, SPPA-View Access
- Lifecycle Reporting
- Usage and Summary Reporting

- **Remote System Administrative Checks**

- **Parts Exchange**

- 25% discount on parts purchased

- **Remote Expert Center (REC) hours**

- 40 Hours (20% discount off of list price for additional hours)
- 20% rollover

- **On-Site Field Service/Technical Support**

- 10% discount on hours purchased

- **Cyber Security Services**

- Malware and Security Patch Updates

- **Class Training Sessions**

- 2 Training Sessions per year (5% discount off of catalog pricing for additional training)

- **Version Upgrade**

- Upgrade to latest SPPA-T3000 including all required HW/SW and onsite labor/ travel for install
- One within service contract term
- Scheduled between Spring 2019 and Fall 2021

Redding Power Plant Customer Service Agreement Five (5) - Year Program

Base Services

- I&C Customer Portal, SPPA-View Access
- Lifecycle Reporting
- Usage and Summary Reporting

- **Remote System Administrative Checks**

- **Parts Exchange**

- 25% discount on parts purchased

- **Remote Expert Center (REC) hours**

- 40 Hours (20% discount off of list price for additional hours)
- 20% rollover

- **On-Site Field Service/Technical Support**

- 10% discount on hours purchased

- **Cyber Security Services**

- Malware and Security Patch Updates

- **Class Training Sessions**

- 2 Training Sessions per year (5% discount off of catalog pricing for additional training)

- **Version Upgrade**

- Upgrade to latest SPPA-T3000 including all required HW/SW and onsite labor/ travel for install
- One within service contract term
- Scheduled between Spring 2019 and Fall 2021

Roseville Power Plant Customer Service Agreement Five (5) - Year Program

Base Services

- I&C Customer Portal, SPPA-View Access
- Lifecycle Reporting
- Usage and Summary Reporting

- **Remote System Administrative Checks**

- **Parts Exchange**

- 25% discount on parts purchased

- **Remote Expert Center (REC) hours**

- 40 Hours (20% discount off of list price for additional hours)
- 20% rollover

- **On-Site Field Service/Technical Support**

- 10% discount on hours purchased

- **Cyber Security Services**

- Malware and Security Patch Updates

- **Class Training Sessions**

- 2 Training Sessions per year (5% discount off of catalog pricing for additional training)

- **Version Upgrade**

- Upgrade to latest SPPA-T3000 including all required HW/SW and onsite labor/ travel for install
- One within service contract term
- Scheduled between Spring 2019 and Fall 2021

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Lodi Energy Center

Lodi Energy Center	An.Svs.Cntrct	Version Upgrade	5-Yr Total	Levelized (/an.)
LEC Current Offers	\$ 79,360	\$ 392,288	\$ 789,088	
New 5-Year Program Exclusive			\$ 694,400	\$ 138,880.00
New 5-Year Program (w/Gysrs)			\$ 678,620	\$ 135,724.00
New 5-Year Program (3-4 sites)			\$ 643,730	\$ 128,746.00

NCPA Geysers

Geysers Plant 1/2	An.Svs.Cntrct	Version Upgrade	5-Yr Total	Levelized (/an.)
Geysers Stand-alone Offers	\$ 87,517	\$ 592,847	\$ 1,030,432	
New 5-Year Program Exclusive			\$ 906,784	\$ 181,357.00
New 5-Year Program (w/Lodi)			\$ 886,177	\$ 177,236.00
New 5-Year Program (3-4 sites)			\$ 840,616	\$ 168,124.00

Redding Power Plant

Redding Power Plant	An.Svs.Cntrct	Version Upgrade	5-Yr Total	Levelized (/an.)
Redding Stand-alone Offers	\$ 87,517	\$ 470,026	\$ 907,611	
New 5-Year Program Exclusive			\$ 798,701	\$ 159,741.00
New 5-Year Program (w/Lodi)			\$ 780,550	\$ 156,111.00
New 5-Year Program (3-4 sites)			\$ 740,420	\$ 148,084.00

Roseville Power Plant

Roseville Power Plant	An. Svs. Cntrct	Version Upgrade	5-Yr total	Levelized (/an.)
Roseville Stand-alone Offers	\$78,725.00	\$357,014.00	\$750,639.00	
New 5-Year Program Exclusive			\$660,565.00	\$132,113.00
New 5-Year Program w/Lodi)			\$645,554.00	\$129,110.80
New 5-Year Program (3-4 sites)	\$64,223.09	\$291,248.55	\$612,364.00	\$122,472.80

Roseville Version upgrade will be billed as a lump sum in the year installed, projected 2021.

Optional Year 1 Pricing for:	Svs. Cntrct Adder		Annual Amount
Application Whitelisting	\$ 28,442.00		\$ 28,442
Penetration Testing	\$ 40,503.00		\$ 40,503

Pricing for additional services to be performed will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

Siemens Energy, Inc.

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

do hereby certify that the below-named company has prepared and implemented security plans in conformity with 49 CFR 172, subpart I and has conducted employee background investigations in conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

NOT APPLICABLE

EXHIBIT E

**ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND**

**MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT**

The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: Bay Cities Pyrotecator, Inc. – Five Year Multi-Task General Services Agreement for fire system maintenance services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>
<i>If other, please specify</i>		
<hr/>		
<hr/>		

RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Bay Cities Pyrotector, Inc. for fire system maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

Fire system maintenance services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has an agreement with Sabah International for similar services. NCPA seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee Review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Bay Cities Pyrotector, Inc.

RESOLUTION XX-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH BAY CITIES PYROTECTOR, INC.

(reference Staff Report #XXX:XX)

WHEREAS, fire system maintenance services are periodically required at the facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Bay Cities Pyrotector, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Bay Cities Pyrotector, Inc. to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities, in an amount not to exceed \$500,000 over five years; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Bay Cities Pyrotector, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for fire system maintenance services for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (SCPPA), or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BAY CITIES PYROTECTOR, INC.**

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Bay Cities Pyrotector, Inc., a California corporation with its office located at 1315 67th Street, Emeryville, CA 94608 ("Contractor") (together sometimes referred to as the "Parties") as of _____, 2018 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Work Provided.** Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Work to be Performed.** At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have

agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** FIVE HUNDRED THOUSAND dollars (\$500,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction;
- At Agency's option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Payment of Taxes. Contractor is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

- 2.5 Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

Section 4. INSURANCE REQUIREMENTS. Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

- 4.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

4.2.2 Automobile Liability. Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

- 4.2.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
- 4.3 Professional Liability Insurance.** Not Applicable.
- 4.4 Pollution Insurance.** Not Applicable.
- 4.5 All Policies Requirements.**
- 4.5.1 Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.
- 4.5.2 Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.
- 4.5.3 Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.
- 4.5.4 Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall have the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.
- 4.6 Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.
- 4.7 Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent

contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.

- 5.1 Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.
- 5.2 Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
- 5.3 Transfer of Title.** Not Applicable.

Section 6. STATUS OF CONTRACTOR.

- 6.1 Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would

otherwise be the responsibility of Agency. Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Contractor's failure to secure workers' compensation insurance for its employees, agents, or subcontractors.

Contractor agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Contractor shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Contractor.

- 6.2 Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.
- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.

- 6.5 **Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.
- 6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.
- 7.4 **Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- 7.5 **Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.
- 7.6 **Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the

State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: <http://www.dir.ca.gov/DLSR/PWD/> and may be reviewed at any time.

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A- 1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency \$50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 *et seq.* In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor.

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof).

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

- 8.4 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

- 8.4.1** Immediately terminate the Agreement;

- 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
- 8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or
- 8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Contractor's Books and Records.** Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.
- 9.4 **Confidential Information and Disclosure.**
 - 9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise,

where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the

Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. PROJECT SITE.

- 10.1 Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.
- 10.2 Contractor's Equipment, Tools, Supplies and Materials.** Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.
- 10.3 Use of Agency Equipment.** Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

- 11.1 Nature of Work.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
- 11.2 Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor's failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's satisfaction.
- 11.3 Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

- 12.1** Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.
- 12.2** Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall

be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

- 12.5** Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.
- 12.8** Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.
- 12.9** Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.
- 12.10** If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively "Member" solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1** **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 13.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 13.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
- Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*
- 13.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.
- 13.8 Notices.** Any written notice to Contractor shall be sent to:

Bay Cities Pyrotecator, Inc.
Attention: Justin Hansen
1315 67th Street
Emeryville, CA 94608

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

- 13.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 13.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
- 13.11 Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:
- 13.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
 - 13.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
 - 13.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 13.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

- 13.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 13.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

13.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

13.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

13.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

BAY CITIES PYROTECTOR, INC.

Date_____

Date_____

RANDY S. HOWARD
General Manager

JUSTIN HANSEN,
Alarm and Suppression Systems Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF WORK

Bay Cities Pyrotecator, Inc. ("Contractor") shall provide fire system maintenance services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

General services to include, but not be limited to the following:

- Fire Alarm System Testing & Inspection
- Special Hazard Suppression System / Hood Inspections
- Fire Extinguisher Inspection & Maintenance
- Emergency Services
- UL Central Station Monitoring
- Sprinkler System Testing & Inspection I Fire Pump I Foam-Water
- 5-Year Sprinkler Testing & Inspection
- 5-Year Fire Tank Inspection
- System Modifications

No project under this agreement shall include work that would qualify as a Public Works Project under the guidelines established by the State of California.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Hourly Labor Rates	Prevailing Wage	Prevailing Wage	Prevailing Wage
By Service	Straight Time	Overtime	Sunday / Holidays
Fire Alarm System Testing & Inspection	\$200.00	\$300.00	\$400.00
Special Hazards Suppression System and or Hood Inspections	\$215.00	\$322.50	\$430.00
Sprinkler System Testing & Maintenance/ Fire Pump / Foam-Water	\$215.00	\$322.50	\$430.00
Five Year Sprinkler Testing & Inspection	\$215.00	\$322.50	\$430.00
Five Year Fire Tank Inspection Drain and Inspect Only	\$215.00	\$322.50	\$430.00

Fire Extinguisher Testing and Maintenance will be quote at time of requested service
--

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I,

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

BAY CITIES PYROTECTOR, INC.

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, _____,

(Name of person signing affidavit)(Title)

do hereby certify that the below-named company has prepared and implemented security plans in conformity with 49 CFR 172, subpart I and has conducted employee background investigations in conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.

NOT APPLICABLE

EXHIBIT E

**ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND**

**MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT**

The undersigned hereby certifies and agrees that:

- 1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.
- 2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.
- 3) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.
- 4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.
- 5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: _____ Name of Employer _____

(Authorized Officer & Title)

(Address)



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: Fossil Energy Research Corp. – Five Year Multi-Task Professional Services Agreement for catalyst testing, ammonia grid tuning and engineering support services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	
City of Biggs	<input type="checkbox"/>	
City of Gridley	<input type="checkbox"/>	
City of Healdsburg	<input type="checkbox"/>	
City of Lodi	<input type="checkbox"/>	
City of Lompoc	<input type="checkbox"/>	
City of Palo Alto	<input type="checkbox"/>	
City of Redding	<input type="checkbox"/>	
City of Roseville	<input type="checkbox"/>	
City of Santa Clara	<input type="checkbox"/>	
City of Shasta Lake	<input type="checkbox"/>	
City of Ukiah	<input type="checkbox"/>	
Plumas-Sierra REC	<input type="checkbox"/>	
Port of Oakland	<input type="checkbox"/>	
Truckee Donner PUD	<input type="checkbox"/>	
Other	<input type="checkbox"/>	
<i>If other, please specify</i>		
<hr/>		
<hr/>		

RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Fossil Energy Research Corp. for catalyst testing, ammonia grid tuning, and engineering support services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years, for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

Catalyst testing, ammonia grid tuning, and engineering support services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority ("SCPPA"), or by SCPPA Members.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$1,000,000 over five years, to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has an agreement in place with Environex for similar services. NCPA seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee Review.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Professional Services Agreement with Fossil Energy Research Corp.

RESOLUTION XX-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK PROFESSIONAL SERVICES AGREEMENT WITH FOSSIL ENERGY RESEARCH CORP.

(reference Staff Report #XXX:XX)

WHEREAS, catalyst testing, ammonia grid tuning, and engineering support services are periodically required at the facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Fossil Energy Research Corp. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Professional Services Agreement with Fossil Energy Research Corp. to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities, in an amount not to exceed \$1,000,000 over five years; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Professional Services Agreement with Fossil Energy Research Corp. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for catalyst testing, ammonia grid tuning and engineering support services for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (SCPPA), or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND FOSSIL ENERGY RESOURCE CORP.

This Professional Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Fossil Energy Resource Corp., a corporation with its office located at 23342 South Pointe, Unit C, Laguna Hills, CA 96253 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 2018 ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services or does not respond within the seven day period

specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. **COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED ONE MILLION** dollars (\$1,000,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency's option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency's option, when the Consultant's Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 **Monthly Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 **Payment of Taxes.** Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

- 2.4 Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.
- 2.5 Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

- 4.1 Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.
- 4.2.2 Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 General Liability/Umbrella Insurance. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

4.4.1 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 Notice of Reduction in or Cancellation of Coverage. Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 Higher Limits. If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPPA or Agency member for which the Services are to be performed.

- 4.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.
- 4.6 **Consultant's Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

- 5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.
- 5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement

shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant's failure to secure workers' compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant

itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:

- 8.4.1 Immediately terminate the Agreement;
- 8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or
- 8.4.4 Charge Consultant the difference between the costs to complete the Services that are unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.
- 9.4 **Confidential Information and Disclosure.**
 - 9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise,

where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the

Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

- 10.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

10.8 Notices. Any written notice to Consultant shall be sent to:

Fossil Energy Resource Corp.
Attention: Lawrence Muzio
23342 South Pointe, Unit C
Laguna Hills, CA 92653

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

10.9 Professional Seal. Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 Integration; Incorporation. This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 Alternative Dispute Resolution. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

- 10.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

10.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide services to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this Section only "Member") pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

FOSSIL ENERGY RESOURCE CORP.

Date_____

Date_____

RANDY S. HOWARD
General Manager

LAWRENCE J. MUZIO, Ph.D., P.E.
Vice President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A

SCOPE OF SERVICES

Fossil Energy Research Corp. ("Contractor") shall provide catalyst testing, ammonia grid tuning and engineering support services as requested by the Northern California Power Agency ("Agency") at any Facilities owned or operated by NCPA, its Members, Southern California Public Power Authority (SCPPA) and SCPA Members.

Services to include, but not be limited to the following:

- Catalyst Testing
- Ammonia Grid Tuning
- System Inspection & Sampling
- Reporting
- Engineering Support

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Fossil Energy Research Corp.
Billing Rates: January 2018 – December 2018

Category	Rate *	Name
Engineer 1 (E1)	\$224/hour	L. J. Muzio, G. C. Quartucy, G. H. Shiimoto, D. E. Shore, R. A. Smith, R. E. Thompson J. Canaveral
Engineer 2 (E2)	\$181/hour	
Engineer 3 (E3)	\$164/hour	J. Muncy
Engineer 4 (E4)	\$153/hour	S. Bogseth
Engineer 5 (E5)	\$138/hour	
Engineer 6 (E6)	\$132/hour	B. Spang, A. Tang, J. Dang
Engineer 7 (E7)	\$127/hour	J. Pisano
Technical Specialist (TS)	\$164/hour	K. W. Anderson
Technician 2 (T2) **	\$106/hour	G. Lagula, C. Buening
Clerical (Cl)	\$95/hour	J. Werdmuller
Expenses	Cost + 10%	

**Non-exempt employees (currently Technicians 2 & 3) are covered by the various State and Federal Labor Rules, which stipulate payment of overtime premiums of 50% or 100%. FERCo will invoice these overtime hours at a multiplier of 1.25 and 1.50, respectively.

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, _____

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

FOSSIL ENERGY RESOURCE CORP.

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 ____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.



Commission Staff Report – *DRAFT*

Date: April 25, 2018

COMMISSION MEETING DATE: May 24, 2018

SUBJECT: ECORP Consulting, Inc. – Five Year Multi-Task Consulting Services Agreement for environmental regulatory compliance reporting, forecasting/modeling and design services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Hydroelectric	

IMPACTED MEMBERS:		
All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>
<i>If other, please specify</i>		
<hr/>		
<hr/>		

RECOMMENDATION:

Approval of Resolution XX-XX authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with ECORP Consulting, Inc. for regulatory compliance advice and complex engineering modeling services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

It is recommended to place this item on the Commission Consent Calendar.

BACKGROUND:

ECORP Consulting, Inc. has extensive experience in the environmental compliance space dating back to 1987, and has worked with NCPA for the last five years. Recent NCPA work with ECORP includes an operations forecasting model applicable to the North Fork Stanislaus River to produce runoff forecasts to aid in planning water releases.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not-to-exceed \$1,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the Terms and Conditions of the Agreement will be issued following NCPA procurement policies and procedures.

SELECTION PROCESS:

This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements for similar services and seeks bids from multiple qualified providers when services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

ENVIRONMENTAL ANALYSIS:

This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

Pending Committee approvals.

Respectfully submitted,

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with ECORP Consulting, Inc.

RESOLUTION 18-XX

RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH ECORP CONSULTING, INC.

(reference Staff Report #xxx:18)

WHEREAS, monitoring of environmental regulatory activities at the State Water Resources Control Board (SWRCB), runoff modeling, power generation modeling, and development of technical documents, reports and presentations are periodically required to assist in decision making and mitigation of risk at the facilities owned and/or operated by the Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, ECORP Consulting, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with ECORP Consulting, Inc. to provide such services as needed at all NCPA facility locations, Members, SCPPA, and SCPPA Member facilities in an amount not to exceed \$1,000,000; and

WHEREAS, this activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with ECORP Consulting, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for forecasting, modeling and other informational tools for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (SCPPA), or by SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND ECORP CONSULTING, INC.

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and ECORP Consulting, Inc., a corporation with its office located at 2525 Warren Drive, Rocklin, CA 95677 ("Consultant") (together sometimes referred to as the "Parties") as of _____, 20__ ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

- 1.1 Term of Agreement.** The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.
- 1.2 Standard of Performance.** Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.
- 1.4 Services Provided.** Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.
- 1.5 Request for Services.** At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day

period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** ONE MILLION dollars (\$1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency's option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency's option, when the Consultant's Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 Authorization to Perform Services. The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 Timing for Submittal of Final Invoice. Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 Workers' Compensation. If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars (\$1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of \$1,000,000 per occurrence/\$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than \$100,000. No endorsement shall be attached limiting the coverage.

4.2.2 Automobile Liability. Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of \$1,000,000 per each accident, with a self-insured retention or deductible of no more than \$100,000. This insurance shall provide contractual liability covering all motor vehicles and

mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 General Liability/Umbrella Insurance. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars (\$1,000,000.00) and two million dollars (\$2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars (\$250,000) per claim. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 All Policies Requirements.

4.4.1 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 Notice of Reduction in or Cancellation of Coverage. Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 Higher Limits. If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 Additional Certificates and Endorsements. If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Agency shall have the right to require Consultant to

provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5 Waiver of Subrogation. Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 Consultant's Obligation. Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only

insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant's failure to secure workers' compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

- 6.2 Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
- 6.3 Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement

was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency's satisfaction.

- 6.4 Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

- 8.2 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.3 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.
- 8.4 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency's remedies shall include, but not be limited to, the following:
- 8.4.1** Immediately terminate the Agreement;
 - 8.4.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.4.3** Retain a different consultant to complete the Services not finished by Consultant; and/or
 - 8.4.4** Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for

inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

- 10.7 Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

- 10.8 Notices.** Any written notice to Consultant shall be sent to:

Jeff Meyer
Director, Water Resources Management
ECORP Consulting, Inc.
2525 Warren Drive
Rocklin, CA 95677

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

- 10.9 Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.
- 10.10 Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and

Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 Alternative Dispute Resolution. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

- 10.11.1** Each party shall designate a senior management or executive level representative to negotiate any dispute;
- 10.11.2** The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
- 10.11.3** If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
- 10.11.4** The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.
- 10.11.5** The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
- 10.11.6** The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 *et seq.*

10.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

ECORP CONSULTING, INC.

Date_____

Date_____

RANDY HOWARD, General Manager

JEFF MEYER, Director

Attest:

Assistant Secretary of the Commission

Approved as to Form:

General Counsel

EXHIBIT A
SCOPE OF SERVICES

ECORP Consulting, Inc. ("Consultant") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members, including:

- Monitoring the State Water Resource Control Board's (SWRCB) ongoing activities and decision making process related to implementation of unimpaired flow criteria for the San Joaquin and Sacramento Rivers;
- Advising NCPA of opportunities in the public process where NCPA could provide further input to mitigate risk;
- Analyzing impacts of the proposed SWRCB unimpaired flows on the North Fork Stanislaus Hydroelectric Project and/or Central Valley Project hydropower;
- Water and runoff modeling;
- Power generation modeling;
- Water rights modeling, analysis, and/or reporting;
- Development of Technical Documents, Reports, and Presentations;
- Attendance at meetings; and
- Other misc. engineering tasks.

EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:



ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

RATE SCHEDULE FOR PROFESSIONAL SERVICES¹

NCPA PROJECT TEAM

Jeff Meyer, P.E., Senior Water Resources Engineer	\$220.00
Jared Emery, P.E., Staff Water Resources Engineer	\$175.00
Tonni Clark, Associate Project Manager	\$150.00
Jeff Swager, GIS Manager	\$150.00
Caroline Hinkelman, GIS Specialist.....	\$110.00
Brian Fedrow, Production Manager/Technical Editor	\$150.00
Stephanie Maycock, Water Resources Support.....	\$95.00
Laura Hesse, Associate Production Coordinator.....	\$90.00

ECORP GENERAL RATE SCHEDULE

Project Principal	\$150.00-250.00
Project Managers	\$80.00-250.00
Cultural Resources (Specialist/Associate/Manager/Principal/Director).....	\$60.00-260.00
Water Resources Engineer	\$150.00-220.00
Biologist/Ecologist/Scientist	\$95.00-190.00
Environmental Specialist/Planner	\$55.00-190.00
Construction Monitoring.....	\$70.00-190.00
CAD/GIS/Software Specialist	\$70.00-190.00
Staff Engineer/Biologist/Ecologist/Scientist	\$65.00-135.00
Assistant/Associate/Staff Project Manager	\$45.00-150.00
Project Assistant/Project Administrator/Project Accountant	\$45.00-150.00
Lab Technician.....	\$45.00-90.00
Word Processing/Production Coordinator	\$45.00-90.00

Expense Reimbursement/Other:

1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
2. Copies (color and black and white), equipment and other direct expenses are reimbursed with a 14% administrative handling charge (excluding mileage and per diem).
3. Subcontractor expenses are reimbursed with a 5% administrative handling charge.
4. Mileage is reimbursed at current IRS rate.
5. Per Diem, depending upon location, may be charged where overnight stays are required.
6. Expert Witness Testimony, including Depositions, is billed at time and a half.
7. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.

¹Rates effective for 2018 and are subject to change.

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

The rates set forth above are valid from April 2018 and may be subject to an annual escalation of up to 5% per year, effective upon 30 days' prior written notice to NCPA.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, _____
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

(Signature of officer or agent)

Dated this _____ day of _____, 20 _____.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.