

## DOCKETED

<b>Docket Number:</b>	08-AFC-01C
<b>Project Title:</b>	Avenal Energy Project-Compliance
<b>TN #:</b>	203320
<b>Document Title:</b>	Extension of the Public Comment Period Until December 8, 2014
<b>Description:</b>	Avenal Energy Project (08-AFC-1C) Extension of the Public Comment Period Until December 8, 2014 for the Staff Analyses of Nine (9) Month Petition to Extend the Start of Construction
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<b>Organization:</b>	California Energy Commission
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**CALIFORNIA ENERGY COMMISSION**

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SACRAMENTO, CA 95814-5512  
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**DATE:** November 7, 2014

**TO:** Interested Parties

**FROM:** Camille Remy Obad, Compliance Project Manager

**SUBJECT:** **Avenal Energy Project (08-AFC-1C)**  
**Extension of the Public Comment Period Until December 8, 2014 for the Staff Analyses of Nine (9) Month Petition to Extend the Start of Construction**

On October 22, 2014, Avenal Power Center L.L.C. (APC) filed a petition with the California Energy Commission (Energy Commission) requesting a nine (9) month construction deadline extension for the Avenal Energy Project (Avenal or project). The petition proposes to extend the deadline to commence construction from December 16, 2014 to September 16, 2015. The primary challenges delaying project progress include the initial acquisition and subsequent litigation pertaining to Avenal's federal Prevention of Significant Deterioration (PSD) permit application.

On December 16, 2009, the Energy Commission certified Avenal as a 600-megawatt (MW) natural gas-fired power plant. The U.S. Environmental Protection Agency (U.S. EPA) did not issue a final PSD permit until May 27, 2011. Several parties appealed the PSD issuance to the Ninth Circuit Court of Appeals (Ninth Circuit). On March 5, 2012, due to the uncertainties of the pending litigation, APC filed a Petition to Amend (PTA) the Energy Commission's Final Decision. The 2012 PTA proposed new and modified Air Quality (AQ) conditions of certification to allow Avenal to build/operate either as a major<sup>1</sup> or minor<sup>2</sup> stationary source of criteria air pollutant emissions (depending on the outcome of the Ninth Circuit decision). The Energy Commission approved APC's amendment on January 9, 2013.

In August 2014, the Ninth Circuit issued a decision revoking Avenal's PSD Permit, sending it back to U.S. EPA to revise. Based upon the timing and outcome of the Court's decision APC is requesting a nine (9) month extension "to rethink the options...[and have] the opportunity to fully evaluate those options prior to [license] expiration.

The deadline to commence construction, set by regulation, is otherwise five years from the effective date of the Energy Commission's final decision on the application for certification. An applicant, before the deadline, may request and the Commission may

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<sup>1</sup> A stationary emission source that exceeds applicable review thresholds and requires a PSD permit from the U.S. EPA, or from the local air pollution control district once applicable local rules are incorporated into the State Implementation Plan.

<sup>2</sup> A stationary emission source that does not exceed applicable review thresholds and does not require a PSD permit from the U.S. EPA or the local air pollution control district.

order, an extension for good cause (Cal. Code Regs., tit.20, §1720.3). The purpose of the Energy Commission review process is to determine whether the project owner has shown good cause justifying the extension of the deadline to commence construction. Energy Commission staff (staff) also reviewed the petition and assessed the impacts of this proposal on environmental quality and on public health and safety. Based on this review of the existing environmental setting, the previous environmental analysis, and the project as currently proposed, staff concludes that there are no substantial changes to the project or to the circumstances under which the project is being undertaken, and no new information that was not previously known, justifying a supplemental or subsequent EIR-equivalent analysis at this time.

Nevertheless, staff has identified certain issues that will need to be addressed prior to the start of construction in the areas of Air Quality and Biological Resources, and depending upon when construction is actually expected to begin, conditions of certification may need to be updated or added to address future changed circumstances and any changes in applicable laws, ordinances, regulations or standards (LORS). Energy Commission staff intends to recommend approval of the petition at the ~~December 5, 2014~~ **December 10, 2014** Business Meeting of the Energy Commission.

The Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/avenal/>, has a link to the petition and the Staff Analysis on the right side of the webpage in the box labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option. After the Final Decision, the Energy Commission's Order regarding this petition will also be available from the same webpage.

This notice has been mailed to the Energy Commission's list of interested parties and property owners adjacent to the facility site. It has also been e-mailed to the facility listserv. The listserv is an automated Energy Commission e-mail system by which information about this facility is e-mailed to parties who have subscribed. To subscribe, go to the Commission's webpage for this facility, cited above, scroll down the right side of the project webpage to the box labeled "Subscribe," and provide the requested contact information.

Any person may comment on the Staff Analysis. Those who wish to comment on the analysis are asked to submit their comments by ~~December 4, 2014~~ **December 8, 2014**. To use the Energy Commission's electronic commenting feature, go to the Energy Commission's webpage for this facility, cited above, click on the "Submit e-Comment" link, and follow the instructions in the on-line form. Be sure to include the facility name in your comments. Once submitted, the Energy Commission Dockets Unit reviews and approves your comments, and you will receive an e-mail with a link to them.

Written comments may also be mailed or hand-delivered to:

California Energy Commission  
Dockets Unit, MS-4  
Docket No. 08-AFC-1C

1516 Ninth Street  
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the facility Docket Log and become publically accessible on the Energy Commission's webpage for the facility.

If you have questions about this notice, please contact Camille Remy Obad, Compliance Project Manager, at (916) 654-3940, or by fax to (916) 654-3882, or via e-mail to [camille.remy-obad@energy.ca.gov](mailto:camille.remy-obad@energy.ca.gov).

For information on participating in the Energy Commission's review of the petition, please call the Public Adviser at (800) 822-6228 (toll-free in California) or send your e-mail to [publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov). News media inquiries should be directed to the Energy Commission Media Office at (916) 654-4989, or by e-mail to [mediaoffice@energy.ca.gov](mailto:mediaoffice@energy.ca.gov).

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