

## DOCKETED

<b>Docket Number:</b>	01-AFC-18
<b>Project Title:</b>	Henrietta Peaker Project - GWF Energy, LLC
<b>TN #:</b>	202295
<b>Document Title:</b>	Addendum to March 24, 2014 Motion Requesting Revocation of Amended License
<b>Description:</b>	N/A
<b>Filer:</b>	Paul Kihm
<b>Organization:</b>	Latham & Watkins LLP
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	5/5/2014 4:07:16 PM
<b>Docketed Date:</b>	5/5/2014

Michael J. Carroll  
LATHAM & WATKINS LLP  
650 Town Center Drive, Suite 2000  
Costa Mesa, CA 92626  
(714) 540-1235

STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF: ) DOCKET NOS. 01-AFC-18; 01-AFC-18C  
)  
HENRIETTA PEAKER POWER PLANT )  
PROJECT; HENRIETTA COMBINED ) ADDENDUM TO MARCH 24, 2014  
CYCLE POWER PLANT ) MOTION REQUESTING REVOCATION OF  
) AMENDED LICENSE  
)  
)  
\_\_\_\_\_ )

Due to the ongoing drought emergency in California, and related restrictions placed on the use of water by the Westlands Water District, in conjunction with its request made on March 24, 2014 regarding revocation of the project's amended license, GWF Energy LLC (GWF) requests an amendment to the Condition of Certification in its license requiring maintenance of landscaping at the Henrietta Peaker Power Plant Project that would temporarily suspend the landscape maintenance requirement until drought-related restrictions on water use are lifted.

**A. Procedural Background**

On March 5, 2002, the California Energy Commission (Commission) approved a license (Original License) for the Henrietta Peaker Power Plant Project (01-AFC-18), a 95-megawatt natural-gas fired simple-cycle peaking facility in Henrietta, California (GWF Henrietta Peaker).

On October 14, 2008, GWF Energy LLC (GWF) filed a petition to amend the license for the GWF Henrietta Peaker to allow GWF to convert the existing simple-cycle peaker project to a combined-cycle power plant with a nominal 25 MW (net) of additional generating capacity. The project would have retained the capability to operate in a simple-cycle configuration. GWF sought the amendment to allow it to respond to anticipated market demand for combined-cycle power generation. The amendment was approved by the Commission on April 29, 2010 (Amended License).

Based on changing market conditions, GWF did not move forward with the combined-cycle conversion as expected. On April 16, 2013, GWF filed a Revised Petition to Amend the license for the project to install a reverse osmosis (RO) treatment system as a primary water treatment system to augment the existing treatment system and to modify the wastewater

disposal method (Revised Petition to Amend) (TN#70325). In this same filing, GWF sought clarification that the GWF Henrietta Peaker could be operated in simple cycle mode indefinitely, and that GWF also retained the right to modify the GWF Henrietta Peaker pursuant to the Amended License if required to meet future market demand. On April 29, 2014, GWF, through its counsel, withdrew the April 16, 2013 Revised Petition to Amend. GWF intends to refile its request to install the RO treatment system when it is ready to proceed with that action.

On March 24, 2014, GWF filed a motion requesting revocation of the Amended License and reinstatement of the Original License. That motion has yet to be considered by the Commission, and likewise, to avoid the need to have multiple proceedings on changes to GWF Henrietta Peaker's license, Staff encouraged GWF to file the current request as an addendum to the March 24, 2014 motion. Because GWF has yet to receive revocation of the Amended License and reinstatement of the Original License, this request will address the applicable Condition of Certification in each license.

**B. GWF Requests a Temporary Suspension in the Requirement that it Maintain Landscaping at the GWF Henrietta Peaker**

GWF Henrietta Peaker receives its water supply from the Westlands Water District. *See* Original License at Water Resources, p. 173; Amended License at General Conditions, p. 7. The water supplied by Westlands Water District is State Water Project and Central Valley Project water. *Id.*

On January 17, 2014, Governor Brown declared a state of emergency regarding California's ongoing drought conditions and predictions that 2014 will be the driest year on record.<sup>1</sup> The Governor's declaration requires that state and local agencies execute measures aimed at conserving the available water and reducing water usage.

As part of its reaction to the drought conditions, Westland Water District issued a notice on February 27, 2014 which, among other things, prohibited all outdoor uses of municipal and industrial (M&I) water. This prohibition was made effective immediately, and the notice stated that it would remain in place for an indeterminate period of time. The notice of this prohibition is attached as Exhibit A.

In both the Original and Amended Licenses, Condition of Certification "VIS-5" requires GWF to implement a perimeter landscaping plan, and once the plan is implemented, to maintain the landscaping. Maintenance of the landscaping at GWF Henrietta Peaker requires irrigation, and the VIS-5 condition in both licenses mentions the irrigation system for maintenance of the landscaping.

GWF Henrietta Peaker uses the water it receives from Westlands Water District for its irrigation system to maintain its landscaping, but due to the prohibition on outdoor use of M&I water put in place by Westlands Water District on February 27, 2014, GWF Henrietta Peaker can no longer run its irrigation system and remain in compliance.

---

<sup>1</sup> Full text of the Governor's declaration is available at <http://gov.ca.gov/news.php?id=18368>.

Because maintaining compliance with both the Westlands Water District's prohibition against the use of M&I water outdoors and Condition of Certification VIS-5 requiring maintenance of landscaping is not possible during this drought emergency, GWF hereby requests that the Commission amend or suspend Condition of Certification VIS-5 to address drought conditions when irrigation is prohibited. An amendment or suspension of VIS-5 will allow GWF Henrietta Peaker to maintain compliance with the Conditions of Certification, while also responding to California's current extreme drought conditions and the restrictions of the Westlands Water District, along with any future drought emergencies.

C. Proposed Language for Amendment to Condition of Certification VIS-5

To allow GWF Henrietta Peaker to remain in compliance with the Conditions of Certification and the restrictions Westlands Water District has placed on water usage during the current drought emergency, GWF proposes the following change to Condition of Certification VIS-5:

**LANDSCAPE SCREENING**

VIS-5: Prior to the start of commercial operation, the project owner shall prepare and implement an approved perimeter landscape plan to partially screen the west and south views of the power plant to the greatest extent possible. Fast growing tree species, such as but not limited to evergreens, shall be used to ensure that maximum screening is achieved as quickly as possible. Plant species shall be selected that will blend the landscaping into the surrounding environment. Suitable irrigation shall be installed, if necessary, to ensure survival of the plantings. *However, when the Governor has declared a state of emergency due to drought conditions, or the suppliers of the project's water have placed restrictions on the use of water that prohibit the use of water for landscape maintenance activities, the project is not required to operate the irrigation system.* Landscaping shall be installed consistent with the Kings County zoning ordinance.

Protocol: Prior to the start of commercial operation, the project owner shall submit a perimeter landscape plan to the Kings County Planning Department for review and comment, and to the CPM for review and approval. The submittal to the CPM shall include the Department's comments. The plan shall include, but not be limited to:

1. a detailed landscape, grading, and irrigation plan, at a reasonable scale, which includes a list of proposed tree and shrub species and installation sizes, and a discussion of the suitability of the plants for the site conditions and mitigation objectives. A list of potential tree species that would be viable in this location shall be prepared by a qualified arborist familiar with local growing conditions, with

the objective of providing the widest possible range of species from which to choose. The plan shall demonstrate how the screening conditions called for above shall be met, including evidence provided by a qualified professional arborist that the species selected are both viable and available;

2. maintenance procedures, including any needed irrigation and a plan for routine annual or semi-annual debris removal for the life of the project; and

3. a procedure for monitoring for and replacement of unsuccessful plantings for the life of the project.

The project owner shall not implement the plan until the project owner receives approval of the plan from the CPM.

Verification: At least 60 days prior to the start of commercial operation, the project owner shall submit the perimeter landscape plan to the CPM for review and approval.

If the CPM notifies the project owner that revisions of the plan are needed before the CPM will approve the submittal, within 30 (thirty) days of receiving that notification, the project owner shall prepare and submit to the CPM a revised submittal.

The project owner shall notify the CPM within 7 (seven) days after completing installation of the landscape screening that the planting and irrigation system are ready for inspection. The project owner shall report landscape maintenance activities, including replacement of dead vegetation, for the previous year of operation in the Annual Compliance Report.

*When the Governor has declared a state of emergency due to drought conditions, or the suppliers of the project's water have placed restrictions on the use of water that prohibit the use of water for landscape maintenance activities, the project shall notify the CPM within 7 (seven) days that it is suspending its irrigation activities. The project owner shall report activities taken to address landscape maintenance after the end of drought-related conditions are lifted as part of its Annual Compliance Report.*

DATED: May 5, 2014

Respectfully submitted,

*/s/ Michael J. Carroll*

---

Michael J. Carroll  
LATHAM & WATKINS LLP  
Counsel to Applicant

# **EXHIBIT A**



# Westlands Water District

3130 N. Fresno Street, P.O. Box 6056, Fresno, California 93703-6056, (559) 224-1523, FAX (559) 241-6277

February 27, 2014

*This notice contains important information about the following:*

- **Water Users Should Closely Monitor Water Supply**
- **Outdoor Use of M&I Water Prohibited**
- **Year-End Meter Readings**

## **Water Users Should Closely Monitor Water Supply**

Last week the Bureau of Reclamation announced an initial allocation for south-of-Delta CVP agricultural water service contractors of zero percent for 2014-2015. With District staff's expectation that the allocation will likely remain zero for the water year, the water supply available to water users will be significantly lower than prior years, essentially consisting of just Rescheduled Water, limited District Supplemental Water and individual transfers of water supplies.

With this in mind, water users should closely monitor their use of water supplies. The District's Rules and Regulations provide that water service must be discontinued when a water user has exhausted its available water supply. Further, the unauthorized using or taking of water is prohibited and may subject the water user to civil or criminal prosecution. As always, District staff is available to assist water users in managing their available supplies in order to avoid overuse.

## **Outdoor Use of M&I Water Prohibited**

Effective immediately and until further notice, all outdoor use of District M&I water is prohibited. This temporary measure is necessary to protect public health and safety and will be in place for an indeterminate period of time. This action was taken today by General Manager Thomas Birmingham pursuant to the District's Rules and Regulations. Mr. Birmingham was compelled to order this conservation action due to the extremely dry hydrology and in recognition that the District's water supply, at present and for the foreseeable future, is insufficient to meet all demands for water.

The District will update M&I water users regarding this prohibition when additional information regarding the sufficiency of the District's water supply becomes available. Please call your Customer Service Representative at (559) 241-6250 if you have any questions.

## **Year-End Meter Readings**

The District will be reading water meters for year-end between February 26, 2014 and February 28, 2014. Water users may wish to provide year-end agricultural meter readings for their account. Please complete the information requested below and fax to (559) 241-6276. Please verify the proper placement of any decimal points included in the reading.



Readings faxed to the Fresno Office on or before midnight February 28, 2014 will be used to determine February water use. Please call Customer Accounting at (559) 241-6250 if you have any questions about year-end meter readings.

Account #	Name	Meter #	Reading	Date/Time	Current CFS