

## DOCKETED

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<b>Project Title:</b>	Avenal Energy Project-Compliance
<b>TN #:</b>	203292
<b>Document Title:</b>	Notice of Receipt
<b>Description:</b>	Petition to Extend the Commencement of Construction Deadline
<b>Filer:</b>	Camile Remy-Obad
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<b>Submitter Role:</b>	Commission Staff
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**CALIFORNIA ENERGY COMMISSION**

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www.energy.ca.gov



**NOTICE OF RECEIPT  
PETITION TO EXTEND THE COMMENCEMENT OF CONSTRUCTION DEADLINE  
FOR THE  
AVENAL ENERGY PROJECT (08-AFC-1C)**

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.

**BACKGROUND**

On February 21, 2008, APC filed an Application for Certification for the Project with the Energy Commission seeking approval to construct and operate a 600 megawatt (MW) natural gas-fired power plant in the City of Avenal in Kings County. APC also submitted a PSD permit application to U.S. Environmental Protection Agency (U.S. EPA) seeking approval for the Project. The Energy Commission approved the project in a Final Decision (Decision) dated December 16, 2009, and the U.S. EPA issued a final PSD permit on May 27, 2011. Several parties petitioned the U.S. EPA Environmental Appeals Board (EAB) for review of the PSD permit. The EAB upheld the permit, but subsequently the parties appealed EPA's issuance of the PSD Permit to the Ninth Circuit Court of Appeals (Ninth Circuit).

On March 5, 2012, due to the uncertainties in the outcome or duration of the appeals process, APC filed a Petition to Amend 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). APC also proposed a five year construction deadline extension. However, since the current deadline to commence construction does not expire until December 16, 2014, staff recommended, and APC agreed, to defer the extension request until additional information to support the request was gathered and evaluated. Staff determined that if needed, a proposed change would be the subject of a separate Staff Analysis and 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.

be considered at a future Business Meeting. The Energy Commission approved APC's petition 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 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... how the Project move[s] forward will determine whether the [staff] analysis remains relevant and valid. Avenal requests an additional 9 months to evaluate options and create the necessary filings".

### **ENERGY COMMISSION REVIEW PROCEDURES**

The deadline to commence construction, set by regulation, is 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 order, an extension for good cause (20 Cal. Code of Regs., § 1720.3). The purpose of the Energy Commission review process for such a request is to determine whether the project owner has shown good cause justifying the extension of the deadline to commence construction.

The Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/avenal/> has a link to the amendment petition on the right side of the webpage labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option.

Energy Commission staff is currently reviewing the petition. This Notice of Receipt has been mailed to the Commission's facility mail 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 to the box on the right side of the project's webpage labeled "Subscribe," and provide the requested contact information.

Any person may comment on the petition. 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 email 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 publicly accessible on the Energy Commission's webpage for this 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 at [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, 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).

Date: October 27, 2014	Original signed by Christopher J. Marxen, Manager Compliance Office Siting, Transmission, & Environmental Protection Division
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