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ELLISON SCHNEIDER HARRIS & DONLAN LLP

ATTORNEYS AT LAW

2600 CAPITOL AVENUE, SUITE 400

SACRAMENTO, CALIFORNIA 95816

TELEPHONE: (916) 447-2166

<http://www.eslawfirm.com>

January 13, 2017

Commissioner Karen Douglas, Presiding Member
Commissioner Janea A. Scott, Associate Member
California Energy Commission
1516 Ninth Street
Sacramento, California 95814-5512

Re: High Desert Power Plant Project (97-AFC-01C)
Disclosure of Communications and Notice: Participation of Prior Advocates
Comments of the Project Owner on the Path Forward

Dear Commissioners Douglas and Scott:

In our filing of November 30, 2016, on the memorandum titled *Disclosure of Communications* (TN # 214534, therein referred to as the “Notice”) regarding the participation of Prior Advocates, High Desert Power Project, LLC (the “Project Owner”) noted, among other things, that “the Notice does not state whether the Committee intends to continue to seek and use the advice from Former Advocates.” Allowing for the possibility that the Committee wishes specific recommendations and further clarification on the Project Owner’s views on the appropriate path forward, the Project Owner files these additional comments.

The Project Owner maintains its position that the Prior Advocates must be disqualified and maintains its objections to the extra-record Communications of the Prior Advocates; however, Project Owner requests that the Committee and the Hearing Officer remain engaged in this Amendment proceeding. The Committee and the Hearing Officers are not “Prior Advocates.” None of the concerns expressed about the Prior Advocates and the Advocates’ Communications apply to the Committee or the Hearing Officer. Moreover, the Project Owner does not believe the Communications affect the Committee’s and the Hearing Officer’s abilities to hear this Amendment, going forward, in the fair, impartial, and informed manner as they have always conducted proceedings on behalf of the Commission. The Project Owner further recommends that the Committee and the Hearing Officers engage a new set of legal and technical advisors on a going-forward basis for this Amendment, for the reasons previously articulated.

If the Prior Advocates are disqualified and the Advocates’ Communications are not considered in this proceeding, the Project Owner will waive its right to seek disqualification of the Committee and the Hearing Officers or to otherwise challenge the proceedings based on the prior Communications that may have occurred up to and including the date of this letter.

As set forth in our November 30, 2016 initial comments, the Project Owner wants a clean slate moving forward with the Committee and the Hearing Officer. In accordance with that desire, the Project Owner envisions a process that is open and transparent with this Committee and Hearing Officer directing the proceedings to a successful completion.

The Project Owner wishes to have this Amendment heard and decided on the merits of the requested relief and based on the evidence in the record submitted by the parties. In particular, we believe it is important that the Committee focus on this Amendment request, avoiding the re-litigation of past Commission proceedings and the entanglements of unrelated inter-agency disagreements on regional groundwater and surface issues. This focus includes, among other things, articulating, understanding and respecting the role of the Mojave Water Agency as Watermaster. The Project Owner is a water customer, not a purveyor, and this Amendment is not a forum for regional planning issues well beyond the scope of the requested relief.

We also desire that these proceeding come to an expeditious end. Toward that end, the Project Owner intends to file a compromise proposal for consideration of the Committee and the parties that builds upon the substantial agreement set forth in the "All-Party Stipulation" between the Project Owner, the Commission's Staff, and the California Department of Fish and Wildlife ("CDFW"), dated June 1, 2016 (TN# 211710.) The filing will strive to address the divergent interests of the Commission Staff (seeking to maximize recycled water use) and CDFW (seeking to minimize recycled water use) while respecting the court-administered Judgment and the authorities of regional water purveyors. The filing will also identify evidence in the record that will support the Committee's approval of the compromise proposal.

We are available to discuss our further comments, and we look forward to expeditiously advancing this proceeding.

Sincerely,



Jeffery D. Harris
Peter J. Kiel
Samantha Neumyer
Attorneys for High Desert Power Project, LLC