

DOCKETED

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STATE OF CALIFORNIA

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

In the Matter Of:
High Desert Power Project
Docket No. 97-AFC-01C

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE PREHEARING CONFERENCE STATEMENT STATUS
REPORT

The California Department of Fish and Wildlife (CDFW) submits this status report pursuant to the terms of the Notice of Committee Conference and Related Orders issued on June 30, 2017. (Notice, TN 219987). CDFW is a party to this proceeding.

The Notice requires all parties to this proceeding to file a status report on or before July 6, 2017.

1. *A brief summary of the status of any stipulations or other agreements.*

To date, the parties have not reached an agreement on disputed requirements in Soil & Water 1, 4, 6 and a new proposed condition that would increase the enforceability of Soil & Water 1.

2. *A summary of the subject area that remain disputed and require adjudication, and the precise nature of the dispute for each issue.*

The current Conditions of Certification for the High Desert Power Plant (HDPP), as amended in 2009, do not include a maximum amount of recycled water that the HDPP would be allowed to divert and put to use. Without a maximum amount of recycled water stated in the Certification, it is unclear what the impact to public trust resources in the Transition Zone, and in the Mojave River Basin, will be from that diversion and use by HDPP. The disputed issue would be the maximum amount of recycled water that the HDPP could put to use on a calendar year in order to minimize any impact to public trust resources. A related disputed issue would be CDFW receiving monthly reports on the HDPP use of recycled water and the ability of the CEC Enforcement or Compliance Division to take action, short of a public complaint process, in the event of a violation of this Condition of Certification.

The current Conditions of Certification require that the HDPP may not operate for longer than thirty years unless certain conditions are met. CDFW does not believe that those conditions have been met. Further, issuing a Certification for operation of a gas fired power plant in perpetuity does not seem to be in the public interest. The issue of whether or not the conditions in Soil & Water 6(d) have been met, or if the HDPP should be issued Conditions of Certification with no end date, has not been resolved.

3. *Proposals for briefing deadlines, impact of scheduling conflicts, or other scheduling matters, including the amount of time required for any pre-hearing conference and evidentiary hearing.* The briefing and evidentiary hearing would be streamlined by having clear questions, issued in a pre-hearing notice, to be addressed in the evidentiary hearing. CDFW may not need to present evidence on all of the issues that would be addressed in the evidentiary hearing. CDFW staff are generally not available to participate in an evidentiary hearing in July and August, 2017. CDFW would propose that any briefing deadlines and evidentiary hearing occur after September 5, 2017. CDFW anticipates the evidentiary hearing regarding its testimony, including direct and cross examination, could be completed in one day.

Respectfully Submitted,



Nancee Murray

Attorney IV

California Department of Fish and Wildlife

Date: July 3, 2017