

## DOCKETED

<b>Docket Number:</b>	97-AFC-01C
<b>Project Title:</b>	High Desert Power Plant
<b>TN #:</b>	220064
<b>Document Title:</b>	Memorandum Regarding High Desert Power Project Status Update
<b>Description:</b>	N/A
<b>Filer:</b>	Marichka Haws
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	7/6/2017 2:54:03 PM
<b>Docketed Date:</b>	7/6/2017

# Memorandum

Date: July 6, 2017  
Telephone: (916) 651-0966

To: Karen Douglas, Commissioner and Presiding Member  
Janea A. Scott, Commissioner and Associate Member

From: California Energy Commission – Leonidas Payne / Michelle Chester  
1516 Ninth Street Project Manager Staff Counsel  
Sacramento, CA 95814-5512

**Subject: HIGH DESERT POWER PROJECT—STATUS UPDATE**

On June 30, 2017, the California Energy Commission Committee (Committee) assigned to conduct proceedings on the Project Owner's Petition for Modification to Drought-Proof the High Desert Power Plant filed "Notice of Committee Conference and Related Orders" (Committee Orders), which requires all parties to file a status report by July 6, 2017. Staff's responses to the Committee Orders are as follows:

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

The parties' continued discussions regarding SOIL&WATER-1, -4, -5, -6, -13, and -22. Energy Commission Staff and the California Department of Fish and Wildlife (CDFW) have reached agreement on all conditions. Project Owner contests proposed language in SOIL&WATER-1, 6, and a proposed new condition SOIL&WATER-23, intended to enforce proposed changes to SOIL&WATER-1.<sup>1</sup>

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

Proposed changes to SOIL&WATER-1 contain both a maximum and a minimum requirement regarding recycled water use. The parties have agreed (1) to a maximum amount of recycled water that the High Desert Power Project (HDPP) would be allowed to use annually and over a three-year rolling average; and (2) that there should be a minimum recycled water use requirement based on a percentage of total annual cooling water needs, calculated on a three year rolling average basis while accounting for periods of non-deliverability of recycled water. There is disagreement between the Project Owner and the agencies concerning the actual minimum percentage of recycled water use. Energy Commission Staff and CDFW agreed to a minimum of 25 percent of recycled water use on a three-year rolling average basis, based on recent and historic water use at the plant. The Project Owner proposes 20 percent. Calculated

---

<sup>1</sup> CDFW's Status Report filed on July 3, 2017 states, "the parties have not reached an agreement on disputed requirements in Soil & Water 1, 4, 6, and a new proposed condition . . . ." Staff is under the impression that the terms of SOIL&WATER-4 have been agreed upon by all parties.

from past water use at HDPP of approximately 2,800 acre feet annually, the difference between a 20 and a 25 percent recycled water use requirement is 140 acre feet, a relatively small amount of water.

Energy Commission Staff and CDFW have also agreed upon proposed new language in SOIL&WATER-1 which references an enforcement mechanism established in proposed SOIL&WATER-23 for the minimum and maximum recycled water use provisions.

Project Owner does not agree to inclusion of this language. The proposed language states that if any of the minimum or maximum criteria are not satisfied, then the Project Owner must mitigate in accordance with SOIL&WATER-23, described below. However, the language in SOIL&WATER-1 is flexible and relieves Project Owner of responsibility for mitigation for any conditions outside of their control.

Current SOIL&WATER-6 states, "The project owner shall not operate for longer than thirty (30) years unless the Commission has approved an amendment to its license that specifically evaluates the water resources impacts of continued operation and imposes any mitigation necessary to ameliorate any identified impacts." Project Owner proposes deleting this provision. Energy Commission Staff and CDFW do not agree to remove this provision because the necessary evaluation of water resources impacts has not been conducted, and so the 30-year time limit still applies.

SOIL&WATER-23 is Staff's proposed new condition for the enforcement of the minimum and maximum recycled water use requirements in SOIL&WATER-1. SOIL&WATER-23 would require Project Owner to fund a local environmental enhancement program for any exceedance of the maximum recycled water use provisions and implement a water conservation offset program for any shortfall of the minimum recycled water use provision in SOIL&WATER-1. The likelihood that HDPP will exceed the proposed maximum recycled water provision is negligible based on historic water use.

Furthermore, the proposed water conservation offset is equal to the shortfall of recycled water use; therefore, if HDPP uses zero recycled water over a three year period, and if 25 percent of recycled water use equates to approximately 700 acre feet, then 700 acre feet is the maximum offset required for the first year of those three years. The more likely scenario, however, is that HDPP would use some recycled water over the three year period, and the shortfall would be less than 700 acre feet in any one year. Project Owner does not agree to the inclusion of SOIL&WATER-23. However, Project Owner and Energy Commission Staff seem to agree on the establishment of an environmental enhancement program benefiting the Mojave River riparian habitat in the Transition Zone as a consequence of noncompliance with the terms of SOIL&WATER-1. The Project Owner does not, however, agree to fund offset of excess State Water Project Water use where they do not meet the minimum recycled water use limit.

- 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.*

Energy Commission Staff is available for a pre-hearing conference and evidentiary hearing after September 5, 2017. Energy Commission Staff requests a prehearing conference at least one week in advance of evidentiary hearings. One day of evidentiary hearings should be sufficient to address the remaining areas of dispute. Legal briefs, if required, should be due no earlier than fourteen days after the publication of the evidentiary hearing transcripts.