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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE
STATE OF CALIFORNIA**

Application for Certification of the

HIGH DESERT POWER PROJECT

Docket No. 97-AFC-1C

**STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
STATUS CONFERENCE STATEMENT**

INTRODUCTION

Pursuant to the Committee's *Orders After July 10, 2017 Committee Conference* (TN #220543), the California Department of Fish and Wildlife (CDFW) staff files this Status Conference Statement regarding the operation of the High Desert Power Project (HDPP).

CDFW has reviewed the Energy Commission Staff's Proposed Stipulation Language For the High Desert Power Project Recycled Water Use (TN#220705) docketed on August 11, 2017. CDFW staff greatly appreciate the amount of effort that CEC staff has put into the proposed stipulation language. CDFW believes that if any of the requirements of SOIL & WATER 1(a) are violated, and then the remedy, or penalty for non-compliance, would be to purchase water to replace the water that would have otherwise been discharged to the Mojave River or the Mojave River Transition Zone. CDFW offered to be the entity that would collect the funds necessary to purchase State Water Project (SWP) water for discharge to the Mojave River.

In TN#220705, CEC staff stated "[t]he project owner and the agencies appear to disagree on the amount of the penalty for non-compliance with the maximum and minimum amounts allowed under proposed revisions to SOIL & WATER-1." Assuming that to be true, then CDFW proposes that the penalty for non-compliance, and remedy for the resources in the Mojave River that were injured due to the non-compliance, could also be accomplished by requiring HDPP to purchase water in the Alto Subarea, in the amount of the exceedance, by a date certain, other than recycled water that would have otherwise been discharged by or to the Victor Valley Water Reuse Authority (VWRA). This would give HDPP increased flexibility in purchasing SWP water or recycled water from a wastewater treatment plant in the Alto Subarea other than the one adjacent to the Transition Zone. CDFW recommends this limitation so that HDPP would not be able to purchase recycled water from the VWRA Shay Road Plant, that might have otherwise discharged that same amount of recycled water to the Transition Zone, absent the requirement in SOIL & WATER 1 to purchase it.

CDFW supports the language in SOIL & Water 1 proposed by CEC staff in TN#220705, with a minor amendment. The financial payment should be made to CDFW by March 1 for the previous year, rather than to the specified account. Once payment is made to CDFW, CDFW would then have the ability to create the account and purchase water when sufficient funds have been accrued. Or, in the alternative, as discussed above, CDFW offers the below language as another possible path toward resolution of this matter.

SOIL& WATER – 1 Water Supplies

If any of these three criteria are not satisfied for reasons other than those described in the following paragraph, project owner shall purchase water in the Alto Subarea for discharge to the Mojave River, other than recycled water discharged to or from the VVWRA Shay Road Treatment Plant, by March 1, for the previous calendar year. The amount of water purchased by project owner shall be equal to the amount of Recycled Water used in excess of 2,500 AFY in any calendar year, or the amount of Recycled Water used in excess of 2,000 AFY calculated on a three year rolling average, or the amount equal to the AF difference between 20% of total HDPP project industrial annual water use and total Recycled Water used in the calendar year.

Additionally, in TN#220705, CEC staff is proposing to re-insert the loading sequence where recycled water is used, if available and sufficient quality, as the first choice. CDFW staff believe that re-inserting the loading sequence is not necessary, due to the greater availability of percolated water for HDPP operations. However, because SOIL & WATER 1 would contain both a maximum amount of recycled water that could be used in any one year, and a maximum that could be used on a three year rolling average, then, CDFW would be willing to not raise an objection to the re-insertion of the loading sequence into a subsequent order.

CONCLUSION

CDFW staff support the CEC staff proposed revisions to SOIL & WATER 1, 4,5,6,13 and 22, with the minor amendment stated above. Alternately, CDFW proposes the language above for SOIL & WATER 1 that would give the project owner greater flexibility in purchasing water in an amount equal to the exceedance that occurred.

Respectfully Submitted,



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