

## DOCKETED

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

Application for Certification for the  
HIGH DESERT POWER PROJECT

Docket No. 97-AFC-1C

**STATUS REPORT**

Percolation related issues are settled.

After the July 10, 2017, Committee Conference, Staff assured the Project Owner that Staff would provide the Project Owner with revised, compromise language on the only remaining substantive issue, the minimum percentage of recycled water. The Project Owner proposed 20%; Staff countered with a higher percentage. The parties also had agreement in principle on the concept of a penalty for using too much or too little recycled water and committed to work out the mechanics for a MWA- or CDFW-administered fund. The Project Owner checked in with Staff regularly over the next four weeks following the Committee Conference and was informed that “Staff are still in the process of reviewing a proposal for S&W-1” and that a proposal was “under review.”

The Project Owner and Staff left the last Status Conference with the mutual understanding that Staff “had the pen” in providing the next turn of a proposed settlement. To our disappointment, rather than proposing language for the Project Owner’s consideration, Staff instead docketed and served a position statement -- on a Friday at 4:20 p.m., more than a month after the Committee Conference and the agreement to provide compromise language for the Project Owner’s consideration.

Staff’s newly-minted Soil&Water-1 both retreads cooling tower blowdown and chloride concentration positions repudiated by Staff as “unenforceable” and proffers a Loading Sequence that is directly at odds with the minimum and maximum limits on recycled water negotiated in good faith.<sup>1</sup> Indeed Staff’s mash up of concepts could reasonably be read, under certain circumstances, as both mandating the project to use recycled water in excess of the negotiated limits and pay a penalty for such mandated use. The language, apparently cut and pasted from superseded documents from 2014, are haphazardly placed, reference “other supplies” like MRB groundwater that the Project Owner agreed to forgo, require the project to force the City of Victorville to make capital improvements to a system serving customers other than HDPP, and are seeming at odds with CDFW’s concerns about limiting recycled water use.

The filing, made more than a month later without the courtesy of a call or email indicating a change in Staff direction, abandons negotiation in favor of posturing for a

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<sup>1</sup> TN 210303, Staff, Energy Commission Staff’s Rebuttal Testimony, February 12, 2016; pp. 26, 27, and 33.

