

DOCKETED

Docket Number:	81-AFC-01C
Project Title:	Compliance - Application for Certification of the Occidental Plant # 1
TN #:	235699
Document Title:	ORDER APPROVING SETTLEMENT
Description:	N/A
Filer:	Cody Goldthrite
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/19/2020 10:25:40 AM
Docketed Date:	11/19/2020

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:

GEYSERS UNIT 3, SONOMA
GEYSERS UNIT 16, QUICKSILVER
GEYSERS UNIT 17, LAKE VIEW
GEYSERS UNIT 18, SOCRATES
GEYSERS UNIT 19, CALISTOGA
GEYSERS UNIT 20, GRANT

GEYSERS POWER COMPANY, LLC

Docket Numbers

(80-AFC-01C)
(79-AFC-05C)
(79-AFC-01C)
(79-AFC-03C)
(81-AFC-01C)
(82-AFC-01C)

**ORDER APPROVING
SETTLEMENT**

STAFF RECOMMENDATION

Geysers Power Company, LLC (GPC) owns and operates six geothermal power plants licensed by the California Energy Commission (CEC) and located in either Lake County or Sonoma County and include: Geysers Unit 3, Sonoma (80-AFC-01C); Geysers Unit 16, Quicksilver (79-AFC-05C); Geysers Unit 17, Lake View (79-AFC-01C); Geysers Unit 18, Socrates (79-AFC-03C); Geysers Unit 19, Calistoga (81-AFC-01C); and Geysers Unit 20, Grant (82-AFC-01C) (collectively, “the Geysers Facilities”).

In February and March 2018, CEC Staff conducted site visits and inspections at the Geysers Facilities. On April 17, 2018, Staff issued a Compliance Advice Letter informing GPC that CEC Staff was investigating the fire protection systems at the Geysers Facilities for compliance with applicable fire codes and consistency with CEC licenses and Compliance Monitoring Plans. On November 20, 2019, the Energy Commission Staff informed GPC that it alleged that the six jurisdictional Geysers geothermal facilities Geysers Facilities were out of compliance with the applicable Final Decisions, their respective Compliance Monitoring Plans, and applicable fire codes.

GPC has worked with CEC Staff since the April 17, 2018 Compliance Advice Letter to recommission the fire protection systems at each of the CEC Geysers Facilities.

In assessing the fire protection systems at the Geysers Facilities, GPC prepared updated Basis of Design documents (“BODs”) for each of the Geysers Facilities. GPC

has hired a fire protection engineer, who is a third-party expert, to help create, revise, and refine the BODs. The fire protection engineer also helped implement the initial recommissioning, developed a cooling tower fire protection guidance memorandum, and scheduled recommissioning activities.

GPC's cooperation and other efforts to repair and improve its fire protection systems have saved the CEC time and resources in further investigation and adjudication of the alleged violations.

Given GPC's continuing and diligent cooperation, CEC Staff and GPC believe that rather than engaging in formal adjudication, it would be more productive to enter into a settlement to allow the Parties to focus their collective resources on the ongoing recommissioning actions, which in turn will further expedite completion of the BODs and ensure that the fire protection systems at the Geysers Facilities remain safe and reliable.

In developing this settlement, CEC Staff considered the cooperation of GPC, the specific facts developed by CEC Staff and GPC during the course of the investigation, the actions and omissions by the prior owners before GPC's acquisitions of the Geysers Facilities, and applied the relevant factors in the Public Resources Code Section 25534.1(e) to determine that settlement, rather than formal adjudication, is a more appropriate use of the CEC's and GPC's collective resources.

CEC Staff worked with GPC to develop additional conditions of certification, to ensure the Geysers Facilities operate in compliance with all applicable Final Commission Decisions, their respective Compliance Monitoring Plans, and applicable fire codes. The agreed upon Conditions of Certification, GEN-1, COM Conditions of Certification 1 through 11, FIRE PROTECTION Conditions of Certification 1 through 5 are intended to be amendments to the Final Decisions for each of the CEC Geysers Facilities. Condition of Certification FIRE PREVENTION 1 is intended to be an amendment to the Final Decision for Units 3, 17 and 19.

The legal requirements at issue, as well as staff's allegations and GPC's position, are included in the Settlement Agreement, which provides for a payment of \$2,100,000.00 by GPC to the CEC. In addition, changes to the conditions of certification are also included in the Settlement Agreement.

Staff recommends that the CEC approve the Settlement Agreement and changes to the conditions of certification and direct the Executive Director to execute the Settlement Agreement on behalf of the CEC.

ENERGY COMMISSION FINDINGS

- 1) Public Resources Code section 25532 requires the CEC to establish a monitoring system to assure that any facility certified by the CEC is constructed and is operating in compliance with air and water quality, public health and safety, and

other applicable regulations, guidelines, and conditions adopted or established by the CEC or specified in the written decision.

- 2) Public Resources Code section 25534 empowers the CEC to amend or revoke a license and impose administrative civil penalties.
- 3) Public Resources Code section 25534.1 sets forth factors to consider when determining the amount of an administrative civil penalty.
- 4) As stated in the settlement agreement, in reaching resolution, Staff has considered the factors identified in Public Resources Code section 25534.1, specifically the nature, circumstance, extent, and gravity of the alleged violations, the cost to the state in pursuing the enforcement action, efforts by GPC to resolve issues, funds expended to upgrade facility, and overall cooperation.
- 5) The agreed settlement is appropriate and reflects a fair resolution of issues.
- 6) The settlement also includes new reporting and notification Conditions of Certification, GEN-1, COM Conditions of Certification 1 through 11, FIRE PROTECTION Conditions of Certification 1 through 5, and FIRE PREVENTION Condition of Certification 1. Upon execution of the settlement agreement, these conditions of certification will become part of the facilities' licenses.
- 7) Approval of the settlement, including amending of the licenses with new conditions of certification, is exempt from the California Environmental Quality Act as set forth in the California Code of Regulations Title 14, sections 15060(c)(2), 15060(c)(3), 15061(b)(2), 15061(b)(3), and 15321.

CONCLUSION AND ORDER

The CEC hereby approves the Settlement Agreement and changes to the conditions of certification and directs the Executive Director to execute the Settlement Agreement on behalf of the CEC and file a Notice of Exemption with the Office of Planning and Research.

IT IS SO ORDERED.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on November 16, 2020.

AYE: Hochschild, Scott, Douglas, McAllister, Monahan

NAY: None

ABSENT: None

ABSTAIN: None

Cody Goldthrite

Cody Goldthrite
Secretariat