



High Desert Power Project, LLC

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March 13, 2009

Mr. Steve Munro
Compliance Project Manager
California Energy Commission MS-2000
1516 Ninth Street
Sacramento, CA 95814

DOCKET	
97-AFC-1	
DATE	MAR 13 2009
RECD.	APR 17 2009

Via Overnight Courier

**RE: High Desert Power Project
Docket No. 97-AFC-1,
Petition for Modification to Use Reclaimed Water
Response to March 4, 2009 Email and Data Requests**

Dear Mr. Munro:

High Desert Power Project ("HDPP") is pleased to provide information and data to the California Energy Commission as requested in Casey Weaver's March 4, 2009 e-mail to Logan Olds of the Victor Valley Water Reclamation Authority ("VWVRA") regarding availability of recycled water from the VWVRA.

As it pertains to the availability of recycled water, and for the purposes of satisfying the Memorandum of Understanding ("MOU") between the California Department of Fish and Game ("DFG") and the VWVRA, it is clear that "available recycled water" as referenced in the MOU is not limited to tertiary-treated effluent as discussed in three key points below.

- 1) The MOU is the only governing document in this matter and it alone exclusively defines the meaning of "available recycled water".***

The MOU is an agreement between the DFG and the VWVRA and no other agency or third party is involved in this matter. The MOU contains the entire understanding of the two parties related to their interests, obligations, and rights pertaining to the discharge of wastewater into the Mojave River through two permitted locations: (i) directly to the surface through the weir, and (ii) infiltration through percolation ponds. The MOU obligates the VWVRA to discharge certain amounts of "available recycled water" which is specifically defined as "...daily influent wastewater to the Shay Road Plant," less any other flows used for various purposes including distribution of effluent to the golf course. This plain language in the MOU is the sole definition applicable to the MOU regarding VWVRA's obligations to the DFG, and therefore no other definition in any other agency's

Order, regulation, or guidance is applicable. The MOU specifies that VVWRA's obligation to discharge "available recycled water" into the Mojave River has no further meaning than daily influent wastewater received by the VVWRA.

- 2) ***Treatment standards for daily influent wastewater discharged to the Mojave River are governed by applicable law which does not require tertiary-treated wastewater to be discharged into the percolation ponds.***

VVWRA's daily influent wastewater is treated for discharge in accordance with applicable law established by other agencies, not the DFG. The applicable law governs the treatment and discharge of all of VVWRA's obligations, including those in the MOU. VVWRA's NPDES permit requires that all daily influent wastewater directly discharged to the Mojave River through the weir be treated to tertiary standards, but there is no such requirement for discharge into the percolation ponds which are specifically referred to in the MOU as "existing permitted points of discharge." Consequently, and under the terms of the MOU, the VVWRA has no requirement to treat any wastewater discharged into the percolation ponds to tertiary standards.

- 3) ***VVWRA's obligation to continue discharging 9,000 acre-feet annually beginning in 2003 leaves no doubt that secondary- or tertiary-treated water may be used to satisfy all of its obligations under the MOU.***

The MOU, which was finalized in 2003, requires that "VVWRA will continue to discharge 9,000 acre-feet annually . . . of "available recycled water at its existing points of discharge. . ." In 2002, and as reported by the Energy Commission, the amount of tertiary-treated wastewater discharged to the Mojave River through the weir was 7,259.56 acre-feet¹. Because this amount was less than the 9,000 acre-feet specified in the MOU, it is incorrect to conclude that VVWRA's continuing obligation requires 100% tertiary-treated effluent as Mr. Weaver asserts. Furthermore, if 100% tertiary-treated wastewater was required to satisfy the MOU, then: (i) VVWRA could never meet the terms of the MOU because it is capable of reliably producing only about 8.0 million gallons per day of tertiary-treated effluent, which is less than 9,000 acre-feet per year, and (ii) there would be no water supply available to serve the Victorville II power plant, which is contrary to the findings and conclusions of the Energy Commission in their Decision for the Victorville II Project. In summary, the requirement to continue discharging 9,000 acre-feet of daily influent wastewater, as well as all other discharge obligations under the MOU, includes secondary- and/or tertiary-treated wastewater in aggregate.

Calendar year 2008 data from the VVWRA requested in Mr. Weaver's March 4, 2009 email are as follows:

¹ CEC Staff Data Request/Response Number 75, Victorville 2 Hybrid Power Project (07-AFC-01), July 23, 2007, Table DR75-1.

1) total WWTP effluent.

13,776 AF

2) total amount of recycled (disinfected, title 22) waste water produced.

8731	AF	Tertiary treated to river via weir
352	AF	Tertiary treated to golf course
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9083	AF	

3) total amount of recycled (disinfected, title 22) waste water sent to the golf course.

352 AF

4) total amount of recycled (disinfected, title 22, dechlorinated) waste water released to the Mojave River through the weir.

8731 AF

5) total amount of recycled (disinfected, title 22, dechlorinated) waste water obligated for release to the Mojave River through the weir under the DFG MOU.

9677 AF Weir + perc ponds; there is no tertiary-treated minimum.

The MOU stipulates that at least 9,000 acre-feet of available effluent must be discharged to the Mojave River via "existing permitted points of discharge" at the Shay Road Plant (see Condition 3, page 3, footnote 2). In addition, the MOU requires that at least twenty percent (20%) of increases in the amount of effluent resulting from increased daily influent flow must be discharged to the Mojave River. Furthermore, in any year where the combined flow in the river (natural flow plus VVWRA discharge) exceeds 15,000 acre-feet, the VVWRA may decrease its discharge into the river during the following year by an amount equal to the exceedence.

VVWRA's permitted points of discharge refer to both VVWRA's direct surface discharges to the Mojave River, and discharges to VVWRA's percolation ponds (see page 3 of the MOU). There is no minimum requirement to discharge only tertiary treated effluent as long as the total effluent through both the weir and the percolation ponds meets the requirements of the MOU.

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6) *total amount of recycled water (disinfected, title 22) available for "other" uses.*

(13,776 AF) - (9677 AF) - (352 AF) = 3747 AF

Should you have any questions or need additional information regarding this submittal, please contact me in Omaha at (402) 691-9736 or Jon Boyer at the plant at (760) 530-2303.

Sincerely,



M. Fred Strauss, P.G.
Director, Environmental Programs

cc: Logan Olds, VVWRA
Jon Boyer, HDPP