

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

DOCKET

97-AFC-1C

DATE NOV 13 2009

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In the Matter of:

HIGH DESERT POWER PROJECT

) **Docket No. 97-AFC-1C**

**HIGH DESERT POWER PROJECT,
LLC**

) **Staff Response to Comments
by Robert Sarvey**

High Desert Power Project, LLC, the owner/operator of the High Desert Power Project (HDPP), filed a petition on August 14, 2008, to modify the conditions of certification to remove the prohibition of the use of recycled water for project cooling. Energy Commission staff reviewed the petition and found that it complies with the requirements of Title 20, section 1769(a) of the California Code of Regulations. On September 25, 2009, staff filed its Revised Staff Analysis in which staff recommended approval of the petition to modify the HDPP Project and amend related Conditions of Certification to allow for the use of recycled water. Staff has further recommended that the project owner conduct a feasibility study to determine the viability of increasing the use of recycled water up to 100 percent of cooling needs and other industrial uses.

On October 21, 2009, Robert Sarvey provided comments objecting to the revised staff analysis based on alleged failure to meet two requirements of section 1769 (a) (1) (C) and (D). Those subsections describe required information in the petition as follows:

(C) If the modification is based on information that was known by the petitioner during the certification proceeding, an explanation why the issue was not raised at that time;

(D) If the modification is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision, an explanation of why the change should be permitted

(Cal. Code Regs., tit. 20, § 1769, subd. (a)(1)(C) and (D).) With regard to section 1769 (a) (1) (C), staff notes that the project owner did not know, and could not have known, that availability of State Water Project water would be severely curtailed over an extended period of time due to factors outside of the owner's control. Nor could the project owner have known of the extent to which reclaimed water would be available in the future. With regard to Section 1769 (a) (1) (D), the requested modification is based on new information cited above that undermines the original assumptions of the final decision. The project owner has provided a persuasive explanation of why the restriction against the use of recycled water should be removed, and, consistent with

State water policy, Energy Commission staff strongly supports the substitution of recycled water for potable water for project operations and other industrial uses.

Mr. Sarvey also asserts that the Energy Commission should mandate that the project owner construct “a dry cooling component to High Desert’s cooling system.” Dry cooling was considered as an alternative cooling technology during the original licensing proceeding, but was found “not necessary in order to reduce any direct, indirect, or cumulative environmental impacts to below a level of significance.”¹ There are no new facts that justify reconsideration of the Energy Commission’s rationale for rejecting dry cooling technologies in the original Decision. The assertion that the project owner should construct a dry cooling component should therefore be rejected as having already been decided.

Date: November 13, 2009



KEVIN W. BELL
Senior Staff Counsel

¹ Commission Decision on the Application for Certification for High Desert Power Project, Docket No. 97-AFC-1, May 2000, pgs. 243 – 251.