



High Desert Power Project, LLC

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May 10, 2011

Craig Hoffman  
Project Manager  
California Energy Commission  
Siting, Transmission and Environmental Protection Division  
1516 Ninth Street, MS 15  
Sacramento, CA 95814

<b>DOCKET</b>	
<b>97-AFC-1C</b>	
DATE	MAY 10 2011
RECD.	MAY 16 2011

Via Electronic Mail

**RE: High Desert Power Project  
Docket No. 97-AFC-1  
Petition to Extend Reclaimed Water Use  
Feasibility Study Submittal Date**

Dear Mr. Hoffman:

Enclosed please find High Desert Power Project's petition to amend Docket No. 97-AFC-1. The petition requests that Condition of Certification Soil&Water-1, as amended by Order 09-1118-5, be further amended to extend the submittal date of the reclaimed water use feasibility study from December 31, 2011 to December 31, 2013 to allow for adequate testing at the facility.


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 facility at (760) 530-2303.

Sincerely,

**HIGH DESERT POWER TRUST,**

a Delaware statutory business trust

By: High Desert Power Project, LLC  
a California limited liability company, as agent  
for the High Desert Power Trust under that certain  
Amended and Restated Project Supervisory Agreement  
dated as of April 30, 2001

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

Attachment

**HIGH DESERT POWER PROJECT, LLC**

**AMENDMENT #6 for 97-AFC-1C**

**May 10, 2011**

## **1.0 Introduction and Overview of Proposed Amendment**

Pursuant to Section 1769 of the Commission's Siting Regulations,<sup>1</sup> High Desert Power Project, LLC ("HDPP" or "project owner") hereby petitions the California Energy Commission ("Commission" or "CEC") to amend the Condition of Certification Soil & Water-1 ("S&W-1") to change the reclaimed water feasibility study submittal date for the High Desert Power Project (the "Facility") to December 31, 2013.

In August 2008, HDPP petitioned the Commission to amend the Conditions of Certification for the Facility to remove the prohibition on reclaimed water use for cooling. The Commission granted HDPP's request on November 18, 2009. (See Order 09-1118-5). Order 09-1118-5 authorized HDPP to construct a short water pipeline and to use reclaimed water. Order 09-1118-5 also amended S&W-1 to require HDPP to conduct a feasibility study and determine the viability of increasing the use of reclaimed water for up to 100 percent of cooling needs and other industrial uses. As amended, S&W-1 requires HDPP to submit the feasibility study by December 31, 2011.

At the time of Order 09-1118-5, HDPP anticipated delivery of reclaimed water from the City of Victorville (the "City")<sup>2</sup> in early 2010. Due to circumstances outside the control of HDPP, the City did not begin making reclaimed water available until April 2011. As a result of this delay, HDPP will not be able to conduct adequate evaluation and finalize the feasibility study by December 31, 2011. HDPP therefore petitions the Commission to extend the submittal date in S&W-1 for completion of the feasibility study to December 31, 2013.

The complete description of the proposed Amendment and its necessity are discussed below. The proposed Amendment will not have any impact on the environment, will be in compliance with all applicable LORS, and will not affect nearby property owners or the public.

## **2.0 Description of Proposed Amendment**

Section 1769 (a)(1)(D) of the Commission's Siting Regulations requires a discussion of whether the proposed Amendment is based on new information that changes or undermines the assumptions, rationale, findings, or other bases of the final decision. This section provides the required discussion and also provides an explanation of why the proposed Amendment should be permitted.

The proposed Amendment will extend the reclaimed water feasibility study submittal date to December 31, 2013. This proposed Amendment is based upon new information. Specifically, when the Commission issued Order 09-1118-5, HDPP was involved in negotiations with the City for a contract to supply reclaimed water to the Facility. HDPP anticipated completing this contract before the end of 2009 and beginning to receive reclaimed water in early 2010. Under this timeframe, HDPP would have had approximately 20 months to study the

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<sup>1</sup> 20 Cal. Code Reg. § 1769.

<sup>2</sup> References to the City in this petition are intended to include the Victorville Water District which is party to the Reclaimed Water Service Agreement with HDPP.

use of reclaimed water in preparation for submittal of the final feasibility study by December 31, 2011. A study period of at least this duration is critical to allow adequate time for testing through various year-round operating scenarios that the Facility will be called upon to meet. Most importantly, the anticipated 20-month study period would have included two full summer operating seasons (2010 and 2011) when the Facility would be expected reach its highest dispatch and consequently provide essential test data during peak operating periods.

The City, however, experienced a number of internal delays in negotiating and finalizing the Reclaimed Water Service Agreement (“Agreement”) with HDPP. As a result, the Agreement was not executed until September 28, 2010, almost one year later than HDPP originally expected. After the Agreement was executed, HDPP began construction on the short pipeline in October 2010 to allow reclaimed water to be pumped from the City’s reclaimed water system into HDPP’s cooling tower. HDPP was ready to receive reclaimed water in February 2011.

It is important to note that the City’s intention has always been to use all reclaimed water produced at its new Industrial Wastewater Treatment Plant (“IWWTP”) as the preferred source of reclaimed water for delivery to HDPP, supplemented when necessary with reclaimed water produced at the Victor Valley Wastewater Reclamation Authority (“VWVRA”) treatment plant. In February 2011 the City’s intention was to begin service to the Facility with reclaimed water produced at the IWWTP; however, the City was unable to complete its objective because the reclaimed water produced at the IWWTP did not — and currently does not — meet the quality specifications required in Exhibit B of the Agreement. The City then determined that it could not deliver reclaimed water to the Facility from its supplemental source, the VWVRA, until April 1, 2011. At that time, HDPP was prepared to begin testing the use of reclaimed water at the Facility, approximately 14 months later than expected when Order 09-1118-5 was issued in November 2009. However, as of the date of this Petition, testing of reclaimed water has been further delayed due to low dispatch of the Facility since April 1, 2011.

Currently, the City is endeavoring to solve the issues that prevent the IWWTP from producing reclaimed water that meets the quality specifications in the Agreement. According to City’s staff, the additional modifications will extend the date for delivery of reclaimed water from the IWWTP to no earlier than the July/August 2011 timeframe. When the City changes sources from the VWVRA (predominantly domestic influent) to the IWWTP (predominantly industrial influent), the reclaimed water quality delivered to the Facility will change significantly. HDPP will need adequate time to operate the plant and test this different source of reclaimed water as part of its feasibility study.

This proposed Amendment does not change or undermine the assumptions, rationale, findings, or other bases of the final decision nor subsequent decisions approving project modifications for HDPP. Specifically, the request to modify the deadline for submission of the reclaimed water feasibility study is consistent with Order 09-1118-5. Order 09-1118-5 allowed for reclaimed water testing over an approximate two year timeframe, assuming reclaimed water would have been made available by the City at the end of 2009 (as HDPP anticipated when it sought the amendment).<sup>3</sup>

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<sup>3</sup> 20 Cal. Code Reg. § 1769(C) states that “if the modification is based on information that was known by the petitioner during the certification proceeding, [the petition must contain] an explanation why the issue was not raised

### **3.0 Necessity of Proposed Amendment**

Section 1769 (a)(1)(B) of the Commission Siting Regulations requires that a petition for modification provide a discussion of the necessity for the proposed modification.

When Order No. 09-1118-5 was approved on November 18, 2009, HDPP anticipated having at least 20 or more months of testing reclaimed water produced at the IWWTP, including two full summer operating seasons (2010 and 2011). Due to delays by the City in initiating delivery of reclaimed water, the current best case scenario is that HDPP will have no more than six months of testing the use of any reclaimed water, and even less time for testing use of IWWTP reclaimed water intended as its primary supply, before the current feasibility study submittal due date of December 31, 2011, all which assumes that the Facility will be adequately dispatched during this time frame.

Six months is an insufficient time period to conduct a proper feasibility study for 100% use of reclaimed water because: (i) it does not allow adequate time to account for seasonal variability in reclaimed water quality from the various sources, and (ii) it does not allow for testing during year-round dispatch conditions that the Facility will encounter. Sufficient time to allow for each of these conditions was contemplated when Order No. 09-1118-5 was approved in November 2009 but is no longer available to HDPP due to circumstances beyond its control.

Based on the City's anticipated schedule of bringing the IWWTP on-line and producing reclaimed water that meets the quality specifications in the Agreement, extending the feasibility study due date is necessary to allow for sufficient time, including two full summer operating seasons (2012 and 2013), for testing use of reclaimed water under various operating scenarios. Consequently, HDPP requests that the Commission extend the submittal date of the feasibility study from December 31, 2011 to December 31, 2013.

### **4.0 Environmental Analysis and Compliance with Applicable Laws, Ordinances, Regulations and Standards**

Section 1769 (a)(1)(E) of the Commission Siting Regulations requires that an analysis be conducted that addresses the impacts a modification might have on the environment and proposed measures to mitigate any significant adverse impacts. In addition, Section 1769 (a)(1)(F) requires a discussion of the impacts a modification might have on the project's ability to comply with applicable laws, ordinances, regulations and standards ("LORS"). The proposed amendment is to extend the deadline for submittal of the reclaimed water feasibility study from December 31, 2011 to December 31, 2013. The proposed amendment will not result in any physical change to the natural environment. When the Commission approved HDPP's previous petition to use reclaimed water (Order 09-1118-5), the Commission thoroughly examined the environmental impacts of the proposal and found that there would be no significant adverse impacts. For these reasons, the proposed extension of the deadline to file a feasibility study will not result in any environmental impacts.

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at that time." HDPP did not know, nor did it have reason to know, that during the certification proceedings the City would not be able to begin providing reclaimed water to the Facility later than first quarter 2010.

Further, the extension of the deadline for submittal of the final feasibility study will be in conformance with all applicable LORS.

## **5.0 Proposed Modification to the Conditions of Certification Related to the Requested Amendment**

Consistent with the requirements of the Commission Siting Regulations Section 1769 (a)(1)(A), this section sets forth the proposed modification to the HDPP's Conditions of Certification, as follows:

### **SOIL&WATER-1**

- f. The project shall continue with the feasibility study evaluating the use of 100 percent reclaimed water for evaporative cooling purposes and other industrial uses. The feasibility study shall be completed by the project owner and submitted to the CPM no later than December 31, ~~2014~~, 2013.

## **6.0 Potential Effects on the Public Related to the Proposed Amendment**

The proposed amendment is to extend the deadline for submittal of the reclaimed water feasibility study from December 31, 2011 to December 31, 2013. The proposed amendment will have no impact on the public.

## **7.0 Potential Effects on Property Owners and List of Property Owners Related to the Proposed Amendment**

The proposed amendment is to extend the deadline for submittal of the reclaimed water feasibility study from December 31, 2011 to December 31, 2013. There are no property owners that will be impacted by the proposed amendment.