

California Energy Commission

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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

BOTTLE ROCK POWER, LLC

**BOTTLE ROCK GEOTHERMAL
POWER PLANT**

Docket No. 79-AFC-4C

Docket No. 12-CAI-04

PETITION TO AMEND

**BOTTLE ROCK POWER, LLC'S
PETITION TO AMEND**

March 8, 2013

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Project Owner, Bottle Rock Power, LLC (“Project Owner” or “BRP”) submits this Petition to Amend (“Petition”) seeking modification of Order Number 01-0530-07, issued May 30, 2001, subsequent to the Final Decision issued by the California Energy Commission (“Commission”) for the Bottle Rock Power Plant (“BRPP”) in or about November 1980 (79-AFC-4C). The Project Owner’s reasons for this Petition are set forth in more specific detail below.

I. INTRODUCTION

On May 30, 2001, the Commission issued an Order (Order No. 01-0530-07; hereinafter referred to as the “2001 Order”), which transferred ownership of the Bottle Rock Geothermal Power Plant, 79-AFC-4C from the California Department of Water Resources (“DWR”) to Bottle Rock Power Corporation.¹ The 2001 Order set forth a “condition” that required “The

¹ In 2006, Bottle Rock Power Corporation submitted a Petition to Amend seeking, among other things, transfer of ownership to Bottle Rock Power, LLC. The Commission approved the Petition to Amend on December 13, 2006. (See Commission Order No. 06-1213-12.)

parties”² to “strictly adhere to the terms of the “Purchase Agreement for the Bottle Rock Power Plant and Assignment of Geothermal Lease”. (Commission Order No. 01-0530-07 at p. 4.)

Because conditions have substantially changed, and because DWR and BRP, the current project owner, have amended the referenced agreement to remove terms that the Commission appeared to have focused attention on when issuing the 2001 Order, BRP herein submits this Petition to Amend the final decision in the Bottle Rock Power Plant Project, 79-AFC-4C, by eliminating the “condition” in the 2001 Order.³

II. ANALYSIS OF PROPOSED CHANGE

Pursuant to Title 20, California Code of Regulations, section 1769, this Petition includes the specific amendments sought by this Petition and an analysis thereof. In short, this Petition does not seek any modifications to the facility or its operations. Instead, this Petition seeks to remove a “condition” in the 2001 Order that could be interpreted to require adherence to an agreement between DWR and the then project owner without allowing subsequent changes to the agreement by the parties to that agreement. Several terms of that agreement were of particular focus of the Commission when it issued the 2001 Order, namely a section requiring a decommissioning bond and a section requiring an environmental insurance policy. Because the

² By reference to “the parties” the Commission appears to have meant DWR and Bottle Rock Power Corporation.

³ This Petition is also filed in response to the Decision Sustaining Complaint Against Bottle Rock Power, LLC, Docket No. 12-CAI-04, dated February 6, 2013, and specifically, Finding #6, which provides the requirement to file a “surety bond shall be stayed if Bottle Rock Power, LLC, files a petition to amend the bond requirement on or before March 8, 2013.” In addition, pursuant to Finding #6, Bottle Rock Power, LLC submitted “documentation indicating that Respondent has entered into a contract for completion of [an engineering study establishing the costs of decommissioning the Bottle Rock Power Plant]” on or before March 8, 2013. The evidence of the contract was submitted on March 6, 2013 and is also attached hereto as Exhibit A.

proposed new owner at the time of the 2001 Order was inexperienced and new to the geothermal power sector, and because the power plant had previously suspended operations, the Commission appeared to seek assurances regarding the ability of the new owner to properly sustain power generation operations at the plant. In other words, there was, in 2001, uncertainty about the sustainability of the new effort to restart and operate the power plant. The agreement with DWR provided a means of providing assurances against that risk, so the Commission approved the ownership change subject to adherence to the agreement between DWR and the project owner at the time.

Today, conditions are very different at the Bottle Rock Power Plant. The owner, BRP, is an experienced geothermal developer and operator, and is operating the power plant in accordance with business and professional standards. BRP sells its renewable electricity to Pacific Gas & Electric under a long term power purchase agreement. Under its current ownership, the geothermal power plant has been steadily, safely and reliably producing renewable baseload geothermal power since 2007 – longer than the facility was operated by DWR during its first period of operation in the late 1980s.

In addition to its current generation, BRP has been executing against a development and expansion plan for the steam field since its acquisition of an adjacent federal geothermal lease in 2007. Final permits and approvals for that expansion were received in mid-2012. Moreover, the power purchase agreement includes provisions for increased output over time and requires BRP to pursue such an expansion of supply of steam to the power plant. BRP has obtained all necessary permits to commence construction of the expansion but needs to direct all available capital, in addition to investing new capital, towards the expansion effort. The transaction with DWR furthered that goal by freeing up the money in the bond to be put to good use in expanding

renewable energy output. Bottle Rock seeks to obtain clarity on this critical issue of whether it must devote critical sources of capital to decommissioning bonds and environmental insurance that were in place to resolve concerns no longer present, rather than to deploy those same dollars to funding an increase of the plant's output.

For that important reason, BRP now seeks to confirm that the Commission agrees that the plant should be treated like nearly every other similarly situated power plant under its jurisdiction, namely that decommissioning assurances are provided by Conditions of Certification and triggered as the plant approaches termination of operations, and that environmental safety is assured through strict conformance to extensive Conditions of Certification. Bottle Rock Power Plant has such conditions of certification, and, thus, BRP asks the Commission to strike the "condition" in the 2001 Order. BRP also asks the Commission to update BRPP's decommissioning Conditions of Certification to closely mirror the modern, standard requirements and to adopt a new Condition of Certification that requires up-front preliminary decommissioning planning.

A. Information Required Pursuant to Section 1769(A)(1) of Title 20 of the California Code of Regulations

1. Description of Proposed Modifications and Proposed New Language for Conditions of Certifications. (20 Cal. Code Regs. § 1769(a)(1)(A).)

BRP asks the Commission to strike the following language found in the 2001 Order:

"...[t]he parties shall strictly adhere to the terms of the 'Purchase Agreement for the Bottle Rock Power Plant and Assignment of Geothermal Lease'."

BRP also asks the Commission to replace three Conditions of Certification in the Final Decision that regulate decommissioning and/or shutdown, with the Commission's modern, more comprehensive Conditions of Certification related to decommissioning. Under this request,

Conditions of Certification 5-2, 8-4 and 9-5 would be replaced with new Conditions of Certification: Compliance-1, Compliance-2, Compliance-3, and Compliance-4 as provided below. These conditions provide more specificity as to closure filings and also better provide contingency preparation for unplanned shutdowns.

Conditions of Certification to be Removed:

- 5-2: One year prior to power plant deactivation, the project owner shall include in the decommissioning plan a biological resources element identifying mitigation measures.
Verification: The project owner shall submit the biological resources element of the decommissioning plan to the CEC CPM for a determination in consultation with CDFG of adequacy and acceptability.
- 8-4: Prior to decommissioning of the power plant, the project owner shall prepare site restoration plans and submit them to the CEC CPM for review and approval at least six months prior to scheduled decommissioning.
Verification: At least six months prior to scheduled decommissioning, the project owner shall submit site restoration plans to the CEC CPM for review and approval.
- 9-5: The project owner shall prepare and submit a reclamation plan to the CEC staff to restore the site to its original condition as nearly as practicable.
Verification: At least six months prior to decommissioning of the facility, the project owner shall submit its reclamation plan to the CEC CPM for review and approval.

New Conditions of Certification

Compliance-1, Planned Closure

In order to ensure that a planned facility closure does not create adverse impacts, a closure process that provides for careful consideration of available options and applicable laws, ordinances, regulations, standards, and local/regional plans in existence at the time of closure, will be undertaken. To ensure adequate review of a planned project closure, the project owner shall submit a proposed facility closure plan to the Energy Commission for review and approval at least twelve months prior to commencement of closure activities (or other period of time agreed to by the CPM). The project owner shall file 120 copies (or other number of copies agreed upon by the CPM) of a proposed facility closure plan with the Energy Commission.

The plan shall:

1. identify and discuss any impacts and mitigation to address significant adverse impacts associated with proposed closure activities and to address facilities, equipment, or other project related remnants that will remain at the site;
2. identify a schedule of activities for closure of the power plant site and all other appurtenant facilities constructed as part of the project;

3. identify any facilities or equipment intended to remain on site after closure, the reason, and any future use; and
4. address conformance of the plan with all applicable laws, ordinances, regulations, standards, local/regional plans in existence at the time of facility closure, and applicable conditions of certification.

In the event that there are significant issues associated with the proposed facility closure plan's approval, or the desires of local officials or interested parties are inconsistent with the plan, the CPM shall hold one or more workshops and/or the Energy Commission may hold public hearings as part of its approval procedure.

In addition, prior to submittal of the proposed facility closure plan, a meeting shall be held between the project owner and the Energy Commission CPM for the purpose of discussing the specific contents of the plan.

As necessary, prior to or during the closure plan process, the project owner shall take appropriate steps to eliminate any immediate threats to public health and safety and the environment, but shall not commence any other closure activities, until Energy Commission approval of the facility closure plan is obtained.

Compliance-2, Unplanned Temporary Closure/On-Site Contingency Plan

In order to ensure that public health and safety and the environment are protected in the event of an unplanned temporary facility closure, it is essential to have an on-site contingency plan in place. The on-site contingency plan will help to ensure that all necessary steps to mitigate public health and safety impacts and environmental impacts are taken in a timely manner.

The project owner shall submit an on-site contingency plan for CPM review and approval. The plan shall be submitted no less than 90 days (or other time agreed to by the CPM) after approval of the PTA. The approved plan shall be kept at the site at all times.

The project owner, in consultation with the CPM, will update the on-site contingency plan as necessary. The CPM may require revisions to the on-site contingency plan over the life of the project. In the annual compliance reports submitted to the Energy Commission, the project owner will review the on-site contingency plan, and recommend changes to bring the plan up to date. Any changes to the plan must be approved by the CPM.

The on-site contingency plan shall provide for taking immediate steps to secure the facility from trespassing or encroachment. In addition, for closures of more than 90 days, unless other arrangements are agreed to by the CPM, the plan shall include measures to remove chemicals from storage tanks and other equipment. The plan shall also provide for the safe shutdown of all other equipment. Hazardous Waste is and will continue to be managed according to the LORS in effect at the time of such unplanned temporary closure. (Also see the analysis for the technical areas of Hazardous Materials Management and Waste Management.)

In addition, consistent with requirements under unplanned permanent closure addressed below, the nature and extent of insurance coverage, and major equipment warranties must also be

included in the on-site contingency plan. In addition, the status of the insurance coverage and major equipment warranties must be updated in the annual compliance reports.

In the event of an unplanned temporary closure, the project owner shall notify the CPM, as well as other responsible agencies, by telephone, fax, or e-mail, within 24 hours and shall take all necessary steps to implement the on-site contingency plan. The project owner shall keep the CPM informed of the circumstances and expected duration of the closure.

If the CPM determines that an unplanned temporary closure is likely to be permanent, or for a duration of more than twelve months, a closure plan consistent with the requirements for a planned closure shall be developed and submitted to the CPM within 90 days of the CPM's determination (or other period of time agreed to by the CPM).

Compliance-3, Unplanned Permanent Closure/On-Site Contingency Plan

The on-site contingency plan required for unplanned temporary closure shall also cover unplanned permanent facility closure. All of the requirements specified for unplanned temporary closure shall also apply to unplanned permanent closure.

In addition, the on-site contingency plan shall address how the project owner will ensure that all required closure steps will be successfully undertaken in the unlikely event of abandonment.

In the event of an unplanned permanent closure, the project owner shall notify the CPM, as well as other responsible agencies, by telephone, fax, or e-mail, within 24 hours and shall take all necessary steps to implement the on-site contingency plan. The project owner shall keep the CPM informed of the status of all closure activities.

A closure plan, consistent with the requirements for a planned closure, shall be developed and submitted to the CPM within 90 days of the permanent closure or another period of time agreed to by the CPM.

Compliance-4, Decommissioning Financial Assurances

Within six months of PTA approval, Project owner shall submit a Preliminary Decommissioning Scoping Plan (PDSP) to Lake County for comments on code applicability, and to the CPM for Approval. The PDSP shall contain, at a minimum:

- Proposed scope of decommissioning (level of restoration)
- Definition of the jurisdictional reach of CEC-directed decommissioning
- Estimate, supported by objective analysis, of the present net cost of decommissioning with CEC jurisdiction
- Estimate of the future net cost of decommissioning at the earliest reasonable expected date of plant closure

Project owner shall submit a Decommissioning Funding Plan to the CPM for approval within 90 days of the approval by the CPM of the PDSP. The Decommissioning Funding Plan shall describe, at project owner's option, either a schedule of annual deposits into a trust sufficient to fund future net costs of decommissioning as estimated by the PDSP, or the planned

establishment of a decommissioning bond sufficient to fund present net costs of decommissioning as estimated by the PDSP.

Project owner shall make the first deposit or establish the bond approved in the Decommissioning Funding Plan by December 31 of the calendar year that the Decommissioning Funding Plan is approved. If a trust is established as the Decommissioning Funding Plan mechanism, then Project owner shall continue making annual deposits by December 31st of each year thereafter according to the approved Decommissioning Funding Plan.

Project owner shall report the status of the decommissioning trust account balance in the Annual Compliance Report.

Project owner may submit a proposed revised PDSP or Decommissioning Funding Plan at any time during the life of the project where circumstances have changed such that a different presumption of the scope of decommissioning or level of restoration is proposed, or where a different rate of annual deposits or a conversion from a trust or bond is appropriate.

2. The Necessity for the Proposed Modifications (20 Cal. Code Regs. § 1769(a)(1)(B).)

Removal of the condition language found in the 2001 Order is critical. The funds that were previously devoted to securitizing the decommissioning bond are essential for expansion of the steam resources available to the plant and to fulfill the obligations under the power purchase agreement to provide additional renewable power output from the plant. Generating more renewable, baseload geothermal power advances California's goals of furthering use of renewable energy, and reducing greenhouse gas emissions and dependency on imported fossil fuels. Removal of this language will provide clarity and confirmation that the use of funds for decommissioning bonds (many years in advance of any actual decommissioning) is no longer required and the project owner can utilize all funds at its disposal to increase the production of renewable energy. Additional investment must be made to increase the project output and the uncertainty surrounding inefficient capital restrictions are an obstacle to that investment and subsequent facility expansion.

3. The Proposed Modification is Not Based on Information Known During the Original Certification Proceeding. (20 Cal. Code Regs. § 1769(a)(1)(C).)

At the time the 2001 Order was issued, the owner of BRPP was not able to demonstrate the necessary financial resources or the technical expertise to satisfy the private landowner's concerns that BRPP would be restarted and operated which would have postponed or even eliminated concerns regarding decommissioning. The plant had been sitting idle for 10 years and the landowner was receiving none of the economic benefits of the geothermal lease it had expected when the plant was constructed. The concerns were reasonable and the decommissioning bond and environmental insurance requirements justified.

Those same concerns are no longer valid. Under its current ownership, BRPP has demonstrated the ability to operate in a reliable, safe and sustainable manner. BRP has a recently amended long-term power purchase agreement under which to sell its generation and a fully-permitted steam field expansion project from which to supply additional steam to the power plant. None of this information could have been known or available at the time of the 2001 Order. Conditions are substantially different today, 12 years later, requiring the proposed modification.

4. The Proposed Modification Does Not Change or Undermine the Assumptions, Rationale, Findings, or Other Bases of the Final Decision. (20 Cal. Code Regs. § 1769(a)(1)(D).)

The Final Decision for BRPP was issued in 1980, as most approvals of AFC's are, with an assumption that the project owner was capable and that the project was viable. Project conditions have returned to a state which supports that original assumption and for that reason the conditioning language of the 2001 Order is no longer appropriate or meaningful. BRP has been operating the power plant under a power purchase agreement since 2007. The project has

achieved an impressive 96% availability factor since its restart, exhibiting a highly reliable operation with very little downtime and making it one of the most reliable renewable energy resources in the State of California. Table 1 provides more information on the production characteristics of BRPP.

Table 1

Calendar Year	Delivered Energy (GWh)	Total Availability (%) ⁴
2007	55.4	95.6
2008	98.6	96.7
2009	88.2	96.7
2010	67.7	93.0
2011	88.1	97.1
2012	71.9	95.9

To date, however, BRPP has lacked an additional supply of geothermal steam in order to increase the output of the reliable facility. In May of 2012, BRP cleared the final permitting hurdle for its steam field expansion allowing for construction of new production wells on an adjacent geothermal lease. A complex permitting process had previously prevented efforts to access geothermal resources underlying the expansion lease (acquired in 2007) which more than doubles the development acreage available to BRPP. Access to additional geothermal steam will allow for improved economics as additional power sales will require very little additional

⁴ Total Availability calculation includes scheduled outages, and, therefore is a gross calculation inclusive of all downtime hours.

operating cost (as a result of the high capital cost, low operating cost nature of a geothermal power plant), postponing any need for or risk of decommissioning obligations.

In addition, the recently amended Power Purchase Agreement with Pacific Gas & Electric (approved by the CPUC in October 2012) provides a significantly higher power price to BRP.⁵ This new power price, which was effective and paid retroactively back to March of 2012, greatly increases the revenues generated from BRPP, improves the overall economics of the business and thereby minimizes any risk of decommissioning until at least the end of the 20-year term of the power purchase agreement. However, all available capital, and additional capital, needs to be invested in the expansion of the facility to maximize the probability of long-term sustainable operations at BRPP.

Moreover, the Final Decision included Conditions of Certification regarding shutdown and decommissioning like nearly all power plants under CEC jurisdiction have. Those Conditions of Certification remain in effect. Condition of Certification 9-5 requires a reclamation plan. Condition of Certification 8-4 requires that site restoration plans be submitted to the Commission. Condition 5-2 requires that a biological resources element be included in the decommissioning plan. As part of this Petition, BRP requests that those original Conditions of Certification be “upgraded” and replaced with a modern set of four compliance Conditions of Certification that regulate shutdown and decommissioning.

Finally, it should be understood that BRPP is operating under a long term Power Purchase Agreement that will allow years of revenue production and the ability to gradually and

⁵ From pg. 5 of the Redacted Resolution E-4521 from the California Public Utilities Commission dated October 1, 2012 which approved the BRP PPA amendment, “On May 25, 2012 PG&E filed AL 4048-E requesting CPUC approval of a third amended and restated PPA with the following adjustments: 1. Increase the contract price by over 50% for the first ten years of the PPA, with nearly identical pricing thereafter...”

carefully approach the day of plant shutdown and decommissioning. Even in a scenario where the current ownership is unable or unwilling to continue funding the expansion of the facility's steam field, BRPP, as an operating geothermal power plant in one of the world's most-studied geothermal resource areas, has significant intrinsic value. The engineering firm Black & Veatch, in a recent report prepared for the National Renewable Energy Laboratory, estimates the capital cost for a new geothermal power plant at \$5,940/kW.⁶ Based on the Black & Veatch estimate, at its current output, BRPP would have a replacement value of \$71 million and over \$300 million based on its full 55MW nameplate capacity. There will be ample time for the project to build its funds and prepare its plans for decommissioning. BRPP faces the same task that nearly every power plant in California faces, setting aside funds and preparing for eventual retirement. This was the rationale that drove the original decision and Conditions of Certification, and it is entirely appropriate and timely that BRPP be allowed to continue to operate as approved in the Final Decision.

5. Analysis of the Proposed Modification as to Impacts on the Environment and Proposed Measures to Mitigate any Significant Adverse Impacts. (20 Cal. Code Regs. § 1769(a)(1)(E).)

The proposed modification seeks to modify the Conditions of Certification to reflect standard COCs that are routinely incorporated into modern licenses and that strengthen and broaden the Commission's regulation of shutdown, closure and decommissioning. The project owner does not seek any amendments or modifications to the Conditions of Certification and requirements pertaining to project operations. Instead, the proposed modification would verify or clarify that any special, temporary requirements imposed in 2001 over concern regarding the

⁶ Black & Veatch, "Cost and Performance Data for Power Generation Technologies," February 2012, pg. 32.

viability of restart are no longer needed, valuable nor applicable, and would also provide for more specific COCs related to decommissioning and contingency planning.

Some concern has been expressed that the removal of the “condition” in the 2001 Order creates a risk of environmental harm should the power plant fail to sustain operations or should the owner fail to prepare for the eventual shut down and decommissioning. Such concern, however, defies the core fact that BRPP has achieved and proven sustainability. It would also assume that its owner was going to fail to adhere to Conditions of Certification and fail to prepare, over time, for the shutdown of the plant. Despite these important reasons why the potential for significant environmental impacts resulting from the proposed modification is extremely low, this section briefly assesses specific areas of potential environmental harm that could result from the requested amendments.

For purposes of assessing the potential for environmental impacts, the change that is sought by this Petition is the clarification that provisions in the 2001 Order requiring maintenance of a decommissioning bond and environmental impairment insurance may be removed. COCs would be modified, however, to reflect modern conditions related to decommissioning and contingency planning. Thus, the environmental analysis concerns whether replacing the decommissioning bond and an environmental impairment insurance policy requirements with the proposed new COCs have the potential to result in significant environmental impacts. The potential impacts that could arise from terminating the decommissioning bond would only result if insufficient funds are available at the termination of the project to allow for implementation of the decommissioning plan that is required by the conditions of certification. In such an instance, decommissioning and site reclamation would not occur and the project facilities would remain in place. The potential impacts that could arise from

terminating the environmental impairment insurance would only result if a project upset creates an environmental impairment and there are insufficient funds to address the issue. In either case, because the concerns that gave rise to the decommissioning bond and environmental impairment insurance no longer exist and because the existing and proposed new conditions of certification provide decommissioning assurances and require strict conformance with environmental safety requirements, the potential that such environmental impacts will occur is less than significant.

a. Air Quality

If inadequate funds were available for decommissioning, the project facilities would not be removed and the site would not be reclaimed, and there would be no air emissions associated with decommissioning activities. Proposed Condition of Certification, Compliance-4, Decommissioning Financial Assurances, however, significantly reduces that risk over the life of the project by creating a funding mechanism for decommissioning activities.

Environmental insurance does not protect against the potential for significant air pollutant emissions, but it could provide funds to help redress any harms caused. An operational power plant, however, generates a steady source of operation revenue that nearly all power plants primarily rely on to address incidents and problems. Such a potential for air quality impacts is extremely remote; moreover, the project must strictly comply with extensive conditions from both the Commission and from the local air district that protect environmental health and safety and ensure that such an upset or release does not occur, and the project owner has a proven record of operating in compliance with such conditions. Thus, the potential impacts to air quality from the proposed amendments are less than significant.

b. Public Health

Impacts to public health could occur if a decommissioning plan is not implemented and the public has access to the site and could be exposed to dangerous conditions on site. The project site, however, is located on private property and the public is unlikely to have access to unsafe conditions even if decommissioning is not achieved. Moreover, the proposed conditions of certification provide sufficient assurance that decommissioning will be properly provided for. Proposed condition of certification, Compliance-4, Decommissioning Financial Assurances, significantly reduces the risk over the life of the project by creating a funding mechanism for decommissioning activities.

Impacts could also occur if there is a project upset that results in dangerous conditions with the potential to impact public health. Such a potential is extremely remote, however, because the project must strictly comply with conditions of certification that protect environmental health and safety and the project owner has a proven record of operating in compliance with such conditions. Thus, the potential impacts to public health from the proposed amendments are less than significant.

c. Transmission Line Safety

There are no impacts to transmission facilities that could result from the inability to implement a decommissioning plan. Similarly, the lack of environmental impairment insurance does not impact transmission line safety.

d. Hazardous Materials

The facility utilizes hazardous materials for its operations, and the use of such materials is managed in accordance with Environmental Protection Agency and Department of Toxic Substances Control (DTSC) regulatory requirements and Conditions of Certification. If

insufficient funds are available for decommissioning, such materials could remain on site without proper disposal and create a potential for impacts to the environment if such materials were accidentally released. Proposed Condition of Certification, Compliance-4, Decommissioning Financial Assurances, however, significantly reduces the risk of such a situation by providing a funding mechanism for decommissioning activities.

Similarly, in the event of a project upset that results in an accidental release of hazardous materials, the lack of environmental impairment insurance could result in a potentially significant impact if there were insufficient funds to address the release. These potential impacts, however, are extremely remote because the project must strictly comply with Conditions of Certification that require proper handling and disposal of hazardous materials and the project owner has a proven record of operating in compliance with such conditions. Thus, the potential impacts related to hazardous materials from the proposed amendments are less than significant.

e. Waste Management

If insufficient funds are available for decommissioning, there is a potential that project waste will not be properly disposed of and will remain on site. Similarly, in the event of a project upset that results in waste requiring disposal, a potentially significant impact could occur, if there are insufficient funds to provide for proper waste disposal. These potential impacts, however, are extremely remote because the project must strictly comply with DTSC regulations and Conditions of Certification that require proper handling, and disposal of waste and the project owner has a proven record of operating in compliance with such conditions. Moreover, the proposed Condition of Certification, Compliance-4, Decommissioning Financial Assurances, significantly reduces the risk of a situation where adequate funds might not be available for

decommissioning by creating a funding mechanism for decommissioning activities. Thus, the potential impacts related to waste management from the proposed amendments are less than significant.

f. Land Use

Failure to properly decommission the facility and remediate the site could result in the inability to develop the site for future uses. In addition, the non-operational facilities that remain on site may not comply with Lake County codes and may form the basis for code enforcement action by Lake County. Given the proposed Conditions of Certification pertaining to decommissioning, however, such impacts are extremely remote and less than significant. Moreover, the proposed Condition of Certification, Compliance-4, Decommissioning Financial Assurances significantly reduces the risk of such a situation by creating a funding mechanism for decommissioning activities. Additionally, because the proposed modern Conditions of Certification (Compliance 1, 2 and 3) relating to decommissioning are more comprehensive, the potential for or chance of land use related impacts may actually be less as a result of the proposed changes. There are no potential land use impacts that could result from the proposed amendments.

g. Traffic and Transportation

Failure to properly decommission the facility and elimination of the environmental impairment insurance has little or no potential to result in traffic or transportation impacts.

h. Noise

Failure to properly decommission the facility and elimination of the environmental impairment insurance has no potential to result in noise impacts.

i. Visual Resources

Failure to properly decommission the facility could result in impacts to visual resources if the site is not restored and facilities remain in place. If the visual environment remains in the current condition, impacts to visual resources would be less than significant. There is the potential, however, that over time the facilities would become decayed and create an impact on visual resources. Given the proposed Conditions of Certification pertaining to decommissioning, however, such impacts are extremely remote and less than significant. There are no potential visual impacts that could result from terminating the environmental impairment insurance.

j. Cultural Resources

Failure to properly decommission the facility and elimination of the environmental impairment insurance has no potential to result in impacts to cultural resources.

k. Socioeconomics

Failure to properly decommission the facility could result in facilities becoming decayed and could prevent future development of the site. Inability to further develop the site could have a negative impact on the overall socioeconomics in the County. However, the site is relatively remote and any socioeconomic impacts associated with the inability to develop the site in the future would be minimal and less than significant. Elimination of the environmental impairment insurance has no potential to result in impacts to socioeconomics.

l. Biological Resources

If inadequate funds are available for decommissioning, the project site would not be properly remediated and any habitat value that restoration could provide could not be realized. Over time, however, the site would naturally restore and such impacts would be less than significant. Without environmental impairment insurance, there is a potential that a project upset

could result in potentially significant impacts to biological resources, and there would be insufficient funds to address the impact. The potential for such impacts, however, is extremely remote, because the project must strictly comply with Conditions of Certification to ensure safe operations that protect the environment, and the project owner has a proven record of operating in compliance with such conditions. Moreover, the proposed new Condition of Certification, Compliance 1, 2, 3, and 4, significantly reduce the risk of such a situation. Thus, the potential impacts to biology from the proposed amendments are less than significant.

m. Soil and Agricultural Resources

Inadequate decommissioning and site reclamation could impact site soils if there are insufficient measures to prevent soil erosion or if soils become contaminated by project materials. Given the proposed Conditions of Certification pertaining to decommissioning, however, such impacts are extremely remote and less than significant. The project site does not support agricultural resources, so there is no potential to impact agriculture. There are no potential impacts to soils and agricultural resources that could result from terminating the environmental impairment insurance.

n. Water Resources

Inadequate decommissioning could result in impacts to water resources if the project site is not properly restored and maintained to ensure that site drainage is adequate and that stormwater runoff does not result in discharges of waste that could impair nearby waterways or bodies. Such discharges could contain excessive levels of sediment and silt, or could contain hazardous materials located on site. Given the proposed Conditions of Certification pertaining to decommissioning, however, such impacts are extremely remote and less than significant.

Without environmental impairment insurance, there is a potential that a project upset could result in potentially significant impacts to water resources, and there would be insufficient funds to address the impact. Such a potential is extremely remote, however, because the project must strictly comply with Conditions of Certification to ensure safe operations that require proper management of stormwater and site drainage, erosion control, and protection of the environment. The project owner has a proven record of operating in compliance with such conditions. Thus, the potential impacts to water resources from removing a decommissioning bond and environmental impairment insurance are less than significant.

o. Geological Resources

Failure to properly decommission the facility and elimination of the environmental impairment insurance has no potential to result in impacts to geological resources.

p. Paleontological Resources

Failure to properly decommission the facility and elimination of the environmental impairment insurance has no potential to result in impacts to paleontological resources.

6. Discussion of the Impact of the Proposed Modification on BRPP's ability to Comply with Applicable LORS. (20 Cal. Code Regs. § 1769(a)(1)(F).)

The Department of Conservation, Division of Oil, Gas and Geothermal Resources, regulates decommissioning of wells. Pursuant to Public Resources Code section 3726, the project owner maintains a decommissioning bond to decommission the wells. In addition, pursuant to Lake County Use Permit No. 85-27, the project owner maintains a decommissioning bond adequate to restore the well pads and roads under Lake County's jurisdiction and subject to UP 85-27. Pursuant to Lake County Use Permit No. 09-01, the project owner maintains a decommissioning bond adequate to restore the well pads and roads under Lake County's

jurisdiction and subject to UP 09-01. There are no other federal, state, or local LORS requiring maintenance of a decommissioning bond. There are no federal, state, or local LORS requiring maintenance of environmental impairment insurance. The proposed COCs are consistent with all applicable LORS.

7. Discussion of how the Proposed Modification Affects the Public. (20 Cal. Code Regs. § 1769(a)(1)(G).)

The proposed modification does not change the requirements imposed through the Conditions of Certification that decommissioning plans be submitted, approved and adhered to, and in fact enhances those conditions by updating and modernizing them. The approval of release of any requirement of a decommissioning bond or environmental insurance restores the project to its original, ordinary approval under the Final Decision.

8. List of Potentially Affected Property Owners. (20 Cal. Code Regs. § 1769(a)(1)(H).)

The list of potentially affected property owners is enclosed as Appendix B.

9. Discussion of Potential Effect on Nearby Property Owners, the Public, and the Parties to the Proceeding. (20 Cal. Code Regs. § 1769(a)(1)(I).)

The proposed modification relates to the obligations the Project Owner has with regard to reliably operating the project, contingency planning and preparing for decommissioning. Because BRPP is now a sustainable and reliable operation, and because BRP is an experienced and proven geothermal power plant operator, there are no significant risks of impacts to the nearby property owners, the public or parties resulting from the proposed amendment.

III. CONCLUSION

BRP seeks Commission approval and agreement that the concerns over sustainability and reliability of BRP and the project have been resolved. For that reason, and because long term commitment of funds in decommissioning bonds would deprive the project of valuable and critical funds to be used to increase the output of renewable, baseload, geothermal power, BRP urgently requests that the language in the 2001 Order relating to terms of the purchase and sale agreement with then-owner, DWR, be stricken and that the Conditions of Certification be modified as reflected herein. Based on the forgoing analysis and the data set forth herein, Bottle Rock, LLC respectfully requests the Commission approve this Petition to Amend.

Dated: March 8, 2013



By: _____
Kristen T. Castaños
Attorneys for Bottle Rock Power, LLC

APPENDIX A

APPENDIX B

APN	OWNER	INCAREOF	DBA	MAILADDR	MAILCITY	MA MAILZIP	SITUSNUM	SITUSSTR	CITY
01101224	CARLISI JOHN A & NYBERG POLLY			PO BOX 989	COBB	CA 95426	6850	HIGH VALLEY RD	COBB
01101228	GREENLAW RUSSEL C			P O BOX 477	COBB	CA 95426	14160	BOTTLE ROCK RD	COBB
01101294	LAMIRANDE MARK TANTARELLI OPAL R & OPAL R SURV			PO BOX 628	COBB	CA 95426	14247	BOTTLE ROCK RD	COBB
01101295	TRUSTEE			103 CORONATION DR	SANTA ROSA	CA 95401	14310	BOTTLE ROCK RD	COBB
01101297	BINKLEY FAMILY TRUST PATRICK, SR CHARLES A & PATRICK			P O BOX 592	COBB	CA 95426	6743	HIGH VALLEY RD	COBB
01104007	CAROL R CO TRUSTEE PRENDERGAST STEFANIE P &			PO BOX 1261	COBB	CA 95426	8230	HIGH VALLEY RD	COBB
01104008	SPURGEON MELISSA T SUCC-T			103 VISTA DEL GRANDE	SAN CARLOS	CA 94070	8185	HIGH VALLEY RD	COBB
01104009	JADIKER CAROL A TRUSTEE MULLINS EDWARD J & LINDA L -			113 VISTA PLACE	VENICE	CA 90291	14977	BOTTLE ROCK RD	COBB
01104014	TRUSTEES			5 MULLINS CT	MILLBRAE	CA 94030	14793	BOTTLE ROCK RD	COBB
01104017	FUNG RANDALL & LINDA M			P O BOX 332	COBB	CA 95426	14841	BOTTLE ROCK RD	COBB
01104022	BENNETT DANIEL M & KELLI A OSTRANDER KATHRYN EILEEN			P O BOX 181	COBB	CA 95426	8060	HIGH VALLEY RD	COBB
01104024	TRUSTEE			645 WESTERN DR	RICHMOND	CA 94801	8200	HIGH VALLEY RD	COBB
01104025	FLETCHER DEBORAH			957 SNYDER LANE	WALNUT CREEK	CA 94598	8030	HIGH VALLEY RD	COBB
01104026	SCHAPER DARRELL			705 N STATE ST UNIT 112	UKIAH	CA 95482	8020	HIGH VALLEY RD	COBB
01104029	FUNG RANDALL & LINDA M			P O BOX 332	COBB	CA 95426	8195	HIGH VALLEY RD	COBB
01104031	FUMEO THOMAS			P O BOX 611	COBB	CA 95426	14635	BOTTLE ROCK RD	COBB
01104045	BORDER JEFFERY D TRUSTEE			19032 CARLTON AVE	CASTRO VALLEY	CA 94546	8255	HIGH VALLEY RD	COBB
01104046	FETZ ELISABETH A TRUSTEE			2311 AMETHYST	SANTA CLARA	CA 95051	14434	BOTTLE ROCK RD	COBB
01104047	COLLINS ELLEN M			28133 RIGGS CT	HAYWARD	CA 94542	14579	BOTTLE ROCK RD	COBB
01104048	WILCOX MARK			1193 BUSSELTON WAY	EL DORADA HILLS	CA 95762	14531	BOTTLE ROCK RD	COBB
01104049	WILCOX MARK PATRICK, SR CHARLES A & PATRICK			1193 BUSSELTON WAY	EL DORADO HILLS	CA 95762	14410	BOTTLE ROCK RD	COBB
01104050	CAROL R CO TRUSTEE			PO BOX 1261	COBB	CA 95426	8225	HIGH VALLEY RD	COBB
01104051	COLLINS ELLEN M			28133 RIGGS CT	HAYWARD	CA 94542	8235	HIGH VALLEY RD	COBB
01104052	MULLINS ELAINE M TRUSTEE			2514 CLEMENT ST #201	SAN FRANCISCO	CA 94121	14560	BOTTLE ROCK RD	COBB
01300201	BINKLEY FAMILY TRUST			P O BOX 592	COBB	CA 95426	6825	HIGH VALLEY RD	COBB
01300202	CALPINE CORP	SAM MASON, GEYSERS		10350 SOCRATES MINE ROAD	MIDDLETOWN	CA 95461	6999	HIGH VALLEY RD	COBB
01300203	V V & J COLEMAN, LLC	POWER COMPANY, LLC		6112 DOUBLOON CT	ELK GROVE	CA 95758	7525	HIGH VALLEY RD	COBB
01300204	V V & J COLEMAN, LLC			6112 DOUBLOON CT	ELK GROVE	CA 95758	7385	HIGH VALLEY RD	COBB
01300205	V V & J COLEMAN, LLC			6112 DOUBLOON CT	ELK GROVE	CA 95758	7500	HIGH VALLEY RD	COBB
01300209	COLEMAN WILLA D TRUSTEE CONSIGLIO KENNETH & CLEMENTS			226 SHERMAN DR	RED BLUFF	CA 96080	7685	HIGH VALLEY RD	COBB
01300210	PRISCILLA ANN	C/O PRISCILLA ANN		2870 LOWELL AVE	RICHMOND	CA 94804	7605	HIGH VALLEY RD	COBB
01300224	BARRETT THOMAS J	CLEMENTS		1011 HI HILL LANE	PRINCETON	ID 83857	7580	HIGH VALLEY RD	COBB
01300236	SAVELL JUNE D TRUSTEE	C/O JOHN CONNELLY		5420 HESSEL AVE	SEBASTOPOL	CA 95472	6929	HIGH VALLEY RD	COBB
01300240	HORNER GORDON D	C/O CALPINE		10350 SOCRATES MINE ROAD	MIDDLETOWN	CA 95461	7435	HIGH VALLEY RD	COBB
01300247	COLEMAN WILLA D TRUSTEE			226 SHERMAN DR	RED BLUFF	CA 96080	7610	HIGH VALLEY RD	COBB
01300249	COLEMAN WILLA D TRUSTEE			226 SHERMAN DR	RED BLUFF	CA 96080	7645	HIGH VALLEY RD	COBB
01300252	USA PATRICK CHARLES A & CAROL R - CO				UNKNOWN	CA 00000	7350	HIGH VALLEY RD	COBB
01303301	TRUSTEES			P O BOX 1261	COBB	CA 95426	8065	HIGH VALLEY RD	COBB
01303326	COLON KRISTINA A			P O BOX 6860	CLEARLAKE	CA 95422	15125	BOTTLE ROCK RD	COBB
01303330	BLAKEWAY HARMONY			P O BOX 24	PISEK	ND 58273	15195	BOTTLE ROCK RD	COBB
01304901	SCHAPER DARRELL			705 N STATE ST UNIT 112	UKIAH	CA 95482	7900	HIGH VALLEY RD	COBB
01304902	BENNETT DANIEL M & KELLI A		DBA	P O BOX 181	COBB	CA 95426	8040	HIGH VALLEY RD	COBB
01304903	PINCH JOHN A & BLAKE G CINDY		ADVANCED ENERGY	P O BOX 493	COBB	CA 95426	8015	HIGH VALLEY RD	COBB

01304904	JENSEN DENNIS FLETCHER KELLY L & GERALDINE M		P O BOX 1033	COBB	CA 95426	7925	HIGH VALLEY RD	COBB
01304905	FINN		P O BOX 1272	COBB	CA 95426	7877	HIGH VALLEY RD	COBB
01304906	JENSEN DENNIS OSTRANDER KATHRYN EILEEN		P O BOX 1033	COBB	CA 95426	7955	HIGH VALLEY RD	COBB
01304907	TRUSTEE		645 WESTERN DR	RICHMOND	CA 94801	8045	HIGH VALLEY RD	COBB
01304908	SCHAAF ANN	C/O MILLIE BOROWIAK	488 LAKE DR	WINSTON-SALEM	NC 271079796	7630	HIGH VALLEY RD	COBB
01304909	BARRETT THOMAS J		1011 HI HILL LANE	PRINCETON	ID 83857	7650	HIGH VALLEY RD	COBB
01304910	BARRETT THOMAS J		1011 HI HILL LANE	PRINCETON	ID 83857	7730	HIGH VALLEY RD	COBB



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**IN THE MATTER OF THE
COMPLAINT AGAINST THE
BOTTLE ROCK GEOTHERMAL POWER PLANT**

**Docket No. 79-AFC-4C;
Docket No. 12-CAI-04
PROOF OF SERVICE
(REVISED 3/4/13)**

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DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on March 8, 2013, I served and filed copies of the attached Bottle Rock Power, LLC's Petition to Amend dated March 8, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/bottlerock/index.html>.

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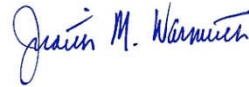
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: March 8, 2013



Judith M. Warmuth