DOCKETED

Docket Number:	97-AFC-01(C1)
Project Title:	High Desert Power Project Complaint
TN #:	206333
Document Title:	REQUEST TO DENY HDPP'S PROPOSAL TO USE RECYCLED WATER
Description:	Request for denial based on failure to comply with projects certified conditions of approval
Filer:	Gary Ledford
Organization:	Party in Intervention
Submitter Role:	Intervenor
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In Pro per

STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the Matter of:	)	Docket No. 97-AFC-1 97-AFC-01C
High Desert Power Project Plant (Compliance) The Application to Modify Conditions Of Approval	)	**REQUEST TO DENY HDPP'S PROPOSAL TO USE RECYCLED WATER – FOR FAILURE TO COMPLY WITH CONDITIONS**

Gary A. Ledford, an Intervenor in the High Desert Power Project (HDPP) proceedings, requests that the California Energy Commission deny any further use of Mojave Water Agency Water for Cooling because;

1. HDDP has failed to meet the original conditions of approval and to bank water in accordance with those conditions: and
2. HDPP promised in the Public meetings that it would NEVER use VVWRA water for cooling, and a condition of approval stated "**shall not use treated water from the Victor Valley Wastewater Authority"** The operative words are "Shall Not".
3. The Water issues facing the State of California and the Mojave River area are severe and critical.

From the beginning of HDPP it was determined the unregulated market was sure to determine a project's financial viability. Viability will be the outcome of applicant choices and marketplace responses to those choices.

"Reliability" on the hand is quite different. If the Energy Commission allows the marketplace to determine reliability, there is no longer a need for the Energy Commission.

The record in HDPP is clear on "reliability." when Hearing Officer Valkosky, asked the Acting Manager of the MWA if it was a matter of **"take your chances,"** he was told, "yes" as illustrated in the following transcript excerpt:

> HEARING OFFICER VALKOSKY: "Okay, so again, just to relate it to this particular project, the City of Victorville, on behalf of the applicant, will be coming back every year, and **it's pretty much take your chances** depending on the availability of water?"
>
> Acting MWA Manager Mr. Cauoette: "That's correct"[1]

Since the project's guarantee of a water supply relies on several documents that were never in existence it was impossible, for the Energy Commission to assure this project as "reliable;" (there was neither a "will-serve letter," nor any other supporting contracts). To issue a certificate to a project without a reliable supply of water clearly violates the Warren Alquist mandate.

The Energy Commission should reconsider the HDPP Decision and require the adoption of a condition that requires HDPP to use Dry Cooling and assure a reliable supply of electricity will be provided by this plant.

With the state of water conditions in California – citizens of this state are subject to fines of $500.00 or more for watering their lawns or washing their cars, public parks and golf courses are dried up – but HDPP has continued to use 100% consumptive use water for cooling.

And make no mistake – HDPP has only one goal and that is to make money – the power they produce is peak demand power – where they get top dollar for the power they produce.

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[1] Hearing Transcript October 7th 1999, page 336 lines 8 - 14

I.

FROM THE RECORD

The use of Water for Cooling was the most highly contested area in these proceedings. Applicant, Staff, CDFG, and CURE believe that, with implementation of appropriate Conditions of Certification, the HDPP will create no significant adverse impacts to the area's water resources.

> An Intervenor, Mr. Gary Ledford, strongly disputes the propriety and the impacts of the project's proposed water supply plan. He does not oppose development of the project, *per se*, but rather basically contends that allowing the project to use imported water for its intended consumptive use gives HDPP a greater amount of water at a reduced rate than other producers in the Basin and thus creates an inequity. More importantly at this juncture, HDPP has simply failed each and every time to comply with conditions imposed on it, every time asking for further modifications to the original conditions of approval.

II.

THE ENVIRONMENTALLY PREFERRED METHOD OF COOLING WAS IGNORED

This Intervenor and many other commentators, requested and now re-request that this power plant and other new power plants to be built in California not use water for cooling, saving that valuable resource for the use of the Public at large, as we said in our original application.

The first merchant plant generating project approved under "deregulation," the Energy Commission adopted the environmentally preferred method of cooling -"Dry Cooling". The findings from that case (97 AFC 2) are compelling and include:

a) Utilizing a 100% dry cooling design will reduce groundwater use by over 95% from the original proposal of 3,000 gallons per minute to a revised annual average of less than 140 gallons per minute.[2]

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2 97-AFC 2, Sutter Decision - page 16

b) Using a dry cooling tower eliminates PM10 emissions associated with its operation, and is the best control technology available.[3]

c) Using dry cooling eliminates a vapor plume and. will mitigate visual impacts of the power plants to below levels of significance.[4]

d) " . . .using a 100 percent dry cooling design which will reduce groundwater use to an annual average of 140 gallons per minute and will result in zero discharge of effluent from the facility. The cooling tower will be replaced by air-cooled condensers that will not emit a steam plume and will eliminate biological impacts associated with wastewater discharge and cooling tower drift. (Ex. 2, p. 439; 11/2/98 RT 123.) The Commission has required this dry cooling technology to be used.[5]

e) Use of dry cooling technology removed the need to dispose of cooling tower blowdown. . "[6]

f) "Calpine attorney Chris Ellison pointed out that if, as a result of high temperatures, the dry cooling facility (or air cool condenser) becomes less efficient, and that fact only impacts the facility's profit margin, not its ability to safely and adequately cool the project. (Id. RT 28.) **Moreover, the Commission is requiring dry cooling as a Condition of Certification.**[7]

g) Staff viewed this efficiency loss as a minor reduction which is reasonable in light of the accompanying reduction in environmental impacts as a result of switching to dry cooling. These reduced impacts occur in the areas of water supply, waste disposal, and visual resources.[8]

In each of the above areas Dry Cooling was demonstrated to be the environmentally preferred method of cooling, yet was literally ignored in the HDPP Decision. The HDPP

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3 Ibid. page 46

4 Ibid. page 121

5 Ibid. page 136

6 Ibid. page 180

7 Ibid.

8 Ibid. page 269

record states: Dry cooling is a viable cooling technology for the High Desert Power Plant,[9] and that there is no evidence to indicate that it is not economical.[10] Unfortunately, although the SWRCBR suggests a financial analysis of dry cooling, there is no study in the HDPP record.[11]

SWRCBR 75-58 goal is "**to protect beneficial uses of the State's water resources and to keep the consumptive use of freshwater for powerplant cooling to that minimally essential for the welfare of the citizens of the State".** It is difficult to understand how the Energy Commission, a sister-agency also charged with protecting state resources, can allow modifications without a determination that the consumptive use of freshwater for its powerplant cooling is that which is "minimally essential."

This Intervenor agrees with the SWRB and the Attorney General that "it is essential that **every reasonable effort** be made to conserve energy supplies and reduce energy demands **to minimize adverse effects on water supply** and water quality and at the same time satisfy the State's energy requirements." It is reasonable, and environmentally preferable, to use dry cooling in the High Desert, in a critically over-drafted water basin.

Based on the Evidence in the record – that HDPP has failed in every regard to put forward a plan for the reliable use of water that is not to the detriment of the Public in the Mojave River Basin, Dry Cooling should be now be mandated in HDPP.

VI.
CONCLUSION

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9 Mr. Layton's testimony, when he was asked if "Dry Cooling" was technologically and economically feasible, he testified as follows: Yes.

10 Question Mr. Ledford: Has any evidence been submitted to you in this proceeding that would indicate to you that it is not economical?

Answer: No.

11 Question Mr. Ledford: "And in the State Water Resources Control Board Resolution 75-58, does it require a financial analysis of dry cooling or does it suggest a financial analysis of dry cooling, might be a better .. ."

Answer: I believe it suggests.

Intervenor has now as in the past raised substantial issues of law that demonstrate the HDPP has failed to follow the Warren Alquist Act and governing regulations.. Intervenor requests that the Commission hear this Request for Denial and render a decision supported by findings of fact and conclusions of law; that

1. As a matter of law, the Energy Commission cannot modify any power plant conditions of approval, and in this case HDPP, that does not conform and comply with **any** applicable federal, state, regional and local laws[12] (also termed "LORS") without:
    a. Making Findings that the Modified Decision does comply with all LORS; or
    b. Making a finding of overriding considerations in the face of substantial drought. .
2. New facts demonstrate that the Decision to Certify the HDPP using Water for cooling have never been complied with.

CONDITIONS of CERTIFICATION
SOIL&WATER-1

> The only water used for project operation (except for domestic purposes) shall be State Water Project (SWP) water obtained by the project owner consistent with the provisions of the Mojave Water Agency's (MWA) Ordinance 9.
>
> If there is no water available to be purchased from the MWA and there is no banked water available to the project, as determined pursuant to **SOIL&WATER-5**, no groundwater shall be pumped, and the project shall not operate. At the project owner's discretion, **dry cooling may be used instead**, if an amendment to the Commission's decision allowing dry cooling is approved.
>
> The project **shall not use treated water from the Victor Valley Wastewater Authority**.
>
> e. The project s water supply facilities shall be appropriately sized to meet project needs.

3. The environmentally preferred method for cooling was ignored in the HDPP Decision, based on the HDPP request for modification of the Conditions of Approval, it is now time to mandate Dry Cooling.

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[12] PRC Section 2523(d) and Title 20 of CCR Section 1744

Respectfully submitted:
October 12, 2015

GARY A. LEDFORD
PARTY IN INTERVENTION
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