

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**COMPLAINT OF GARY LEDFORD ON
HIGH DESERT POWER PROJECT
WATER ISSUES**

**DOCKET No. 97-AFC-1C (C1)
COMPLAINT-1**

**ORDER IN LIEU OF SUBPOENA DUCES TECUM DIRECTING ENERGY COMMISSION STAFF
TO PRODUCE DOCUMENTS AND PROSPECTIVE WITNESSES**

SUMMARY

Given the shortened discovery period before the evidentiary hearing and given that Complainant has requested documents that would otherwise be produced under a Public Records Act request, the Committee directs Commission staff to produce the documents identified in Complainant's "Subpoena for Documents" on December 18, 2001. In addition, the Committee directs Staff to make Commission employees available on December 18, 2001, for interviews by Complainant regarding issues raised in his Complaint.

BACKGROUND

On December 6, 2001, we scheduled an evidentiary hearing on January 16, 2002, to consider the allegations raised in the Complaint. On December 14, 2001, Complainant submitted a document entitled "Subpoena for Documents" requesting that Commission staff produce specific items referenced in the Conditions of Certification. Complainant also requested that Staff make prospective witnesses available for "informal interviews." Complainant asserts that he does not have time to conduct discovery during the upcoming holiday season and plans to travel to the Commission offices on Tuesday, December 18, 2001, to review the documents and interview witnesses. Complainant further alleges that Staff would require 10 days to gather the requested documents after Complainant filed a Public Records Act request.

DISCUSSION

We shortened the schedule for the evidentiary hearing to resolve this matter expeditiously. We are aware that delays would affect the construction schedule. In light of this concern, we believe that the parties should cooperate to the extent feasible in providing necessary information in a timely manner to shed light on the issues before us. The documents requested by Complainant would otherwise be available to him under a Public Records Act (PRA) request. (See, Govt. Code, section 6250 et seq.) Considering the abbreviated discovery period,

we find there is not time for a 10-day turnaround to provide the documents under the PRA. Complainant has offered to travel to Sacramento to review the documents and to interview prospective witnesses on December 18, 2001. Staff typically dedicates the last two weeks of December to vacation time, which cuts into the ability of Complainant to obtain the information he seeks. We therefore direct Staff to provide the documents identified in Exhibit A to Complainant's "Subpoena for Documents." Further, Staff is not prohibited from speaking with other parties. Complainant may interview Staff members on issues relating to the Complaint. Staff shall make those individuals available for interviews by Complainant on December 18, 2001.

ORDER

1. Commission staff shall provide to Complainant the documents identified in Exhibit A to Complainant's "Subpoena for Documents" on December 18, 2001. If Staff is not in possession of a document on December 18, 2001, Staff shall have until close of business on December 21, 2001, to provide the document to Complainant. If Staff has a compelling reason why it cannot provide a document by December 21, 2001, Staff shall notify the Committee in writing by close of business on December 21, 2001.
2. Commission staff shall make individual Commission employees available for face to face interviews by Complainant on December 18, 2001.
3. Complainant shall identify to Staff the individual Commission employees that he wishes to interview no later than noon on December 17, 2001.
4. In the event that an individual Commission employee is not available for an interview with Complainant on December 18, 2001, Staff shall make the employee available for a telephone interview with Complainant no later than Friday, January 4, 2002.

Dated December 14, 2001, at Sacramento, California.

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ROBERT A. LAURIE, Commissioner
Presiding Member
High Desert Complaint Committee

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ROBERT PERNELL, Commissioner
Associate Member
High Desert Complaint Committee