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January 11, 2002

FILE NO. 026805-0001

**VIA FEDEX**

CALIFORNIA ENERGY COMMISSION  
DOCKET UNIT, MS-4  
Attn: Docket No. 97-AFC-1C (C1)  
1516 Ninth Street  
Sacramento, California 95814-5512

Re: Complaint of Gary Ledford on HDPP Water Issues  
CEC Docket No. 97-AFC-1C (C1)

Dear Sir/ Madam:

Pursuant to California Energy Commission Siting Regulation §1209(c) and §1209.5, enclosed herewith for filing please find an original and twelve (12) copies of Respondent HDPP's Position Statement.

Please note that the enclosed Respondent HDPP's Position Statement was filed today via electronic transfer (e-mail) to your attention.

Very truly yours,



Paul E. Kihm  
Senior Paralegal

Enclosure

cc: Michael J. Carroll, Esq. (w/ encl.)

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4 Attorneys for Respondent  
5 High Desert Power Project, LLC

6  
7  
8 CALIFORNIA ENERGY COMMISSION  
9

10 In the Matter Of:  
11 Complainant Gary Ledford's Complaint To  
Compel Compliance Of The California  
12 Energy Commission to Enforce Conditions Of  
Certification In Final Order For 97-AFC-1  
13

97-AFC-1-1C (C1)  
**RESPONDENT HDPP'S POSITION  
STATEMENT**

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1 Pursuant to the Committee's "Notice of Evidentiary Hearing and Order Setting  
2 Schedule for Filing Answer and Witness Lists," dated December 5, 2001, and "Notice of Pre-  
3 Hearing Conference and Order to Produce Compliance Documents," dated December 18, 2001,  
4 High Desert Power Project, LLC ("HDPP") hereby responds as follows.

5 **I. PROPOSED STIPULATIONS**

6 A. The High Desert Power Project ("Project") is a nominal 720-megawatt natural  
7 gas-fired electrical power plant located at a site on the former George Air Force Base in the City  
8 of Victorville.

9 B. An application for certification ("AFC") of the Project was submitted to the  
10 Commission on June 30, 1997, and the Commission accepted the application as complete on  
11 December 3, 1997. The Commission staff issued its final assessment of the Project in January of  
12 1999. The Project siting committee issued its proposed decision on the Project on December 15,  
13 1999. A public evidentiary hearing on the proposed decision was held on January 27, 2000. A  
14 revised proposed decision was issued by the Project siting committee on March 31, 2000. The  
15 Commission adopted the revised proposed decision on May 3, 2000.

16 C. Construction of the Project commenced on May 17, 2001.

17 D. HDPP expects to begin its groundwater recharge program in approximately  
18 September 2002.

19 E. HDPP expects to commence commercial operation of the Project in the spring of  
20 2003.

21 F. Peak water flow demand to meet Project cooling needs, and injection for storage,  
22 is 5800 gallons per minute (gpm).

23 G. During the certification proceedings, HDPP informed the Project siting committee  
24 that a water supply pipe 24 inches in diameter was required to meet peak water flow demand.

25 H. In its final decision, the Commission found that a 24-inch water supply pipe was  
26 required to meet Project needs.

27 I. Final design drawings for the Project's water supply facilities, which included a  
28 24-inch water supply pipe, were submitted by HDPP to the Compliance Project Manager on

1 March 27, 2001. The final design was revised by the Report of Waste Discharge and  
2 Antidegradation Analysis, May 2001 (Exhibit P), which was submitted in June 2001. The final  
3 design was further revised with the submittal of additional information on January 10, 2002.

4 J. HDPP proposes to construct a water supply pipe, which is 24 inches in diameter.

5 K. HDPP and the Victor Valley Water District ("VVWD") have entered into an  
6 Aquifer Storage and Recovery Agreement For The High Desert Power Project, dated January 18,  
7 2000 (the "ASRA").

8 L. The ASRA incorporates, and is consistent with, the final Conditions of  
9 Certification adopted by the Commission.

10 M. The ASRA was docketed by HDPP on February 10, 2000. It was sponsored by  
11 HDPP as Exhibit 145 during the certification evidentiary hearings, and admitted into evidence on  
12 February 18, 2000.

13 N. The Project's water treatment facilities have not yet been constructed.

14 O. HDPP has not commenced banking of State Water Project water.

15 P. HDPP has submitted to the Regional Water Quality Control Board, Lahontan  
16 Region ("RWQCB"), and the Commission, a Report of Waste Discharge and Antidegradation  
17 Analysis for the Proposed High Desert Power Project Groundwater Banking Operation, dated  
18 May 2001.

19 Q. HDPP has submitted to the RWQCB, and the Commission, Supplemental Reports  
20 of Waste Discharge, dated June 20, 2001, June 29, 2001 and July 30, 2001.

21 R. HDPP has submitted to the RWQCB, and the Commission, a Supplemental  
22 Antidegradation Analysis, dated August 23, 2001.

23 S. No specific method of water treatment was specified in the final Commission  
24 decision or the Conditions of Certification.

25 T. The term "approaching" is not synonymous with the terms "meeting" or  
26 "exceeding."

27 U. Average concentrations of total dissolved solids ("TDS") in HDPP treated water  
28 will be approximately 83 mg/l above background in the first six years of Project operations and

1 approximately 35 mg/l thereafter. This effect will be localized in the aquifer near the  
2 injection/extraction wells. There will be no increase in TDS levels measured at the closest  
3 drinking water wells, VVWD Well Nos. 21 and 27. Post-treatment water is estimated to include  
4 TDS levels averaging 248 mg/l.

5 V. California's secondary drinking water standard for TDS is 500 mg/l.

6 W. HDPP treated water will meet or exceed all applicable drinking water standards.

7 X. HDPP treated water will approach background water quality levels of the  
8 receiving aquifer.

9 Y. Increased TDS levels in HDPP treated water, relative to background levels, are  
10 insignificant.

11 Z. HDPP's proposed treatment system meets the requirements of the Soil and Water  
12 Resources Conditions of Certification.

13 AA. HDPP satisfied all pre-construction conditions of certification prior to  
14 commencing Project construction.

15 BB. VVWD and the Mojave Basin Area Watermaster have not entered into a Water  
16 Storage Agreement for the Project. HDPP has not submitted the Water Storage Agreement to the  
17 Commission.

18 CC. The RWQCB has not issued Waste Discharge Requirements or a Waiver of Waste  
19 Discharge Requirements for the Project. HDPP has not submitted any such document to the  
20 Commission.

21 DD. The RWQCB staff has proposed that the RWQCB adopt a proposed draft  
22 Conditional Waiver of Waste Discharge Requirements.

23 EE. HDPP has not begun implementation of a Water Treatment and Monitoring Plan  
24 or submitted any annual monitoring results in connection therewith.

25 FF. The letter from Steve Larson, Executive Director of the California Energy  
26 Commission, to Harold Singer, Executive Officer of the California Regional Water Quality  
27 Control Board, Lahontan Region, dated September 10, 2001, attached to Respondent's Answer  
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1 as Exhibit A, is a true and correct copy of what it purports to be and can be admitted into  
2 evidence without the sponsorship of either party to the letter.

3 GG. The letter from Steve Munro, California Energy Commission, to Neal Parece,  
4 High Desert Power Project, dated May 17, 2001, attached to Respondent's Answer as Exhibit K,  
5 is a true and correct copy of what it purports to be and can be admitted into evidence without the  
6 sponsorship of either party to the letter.

7 HH. The Aquifer Storage and Recovery Agreement For The High Desert Power  
8 Project, dated January 18, 2000, attached to Respondent's Answer as Exhibit M, was previously  
9 entered into evidence during the Project certification proceedings, and can be entered into  
10 evidence in these proceedings without the sponsorship of VVWD.

11 II. The letter from the Randy Hill, Victor Valley Water District to Steve Munro,  
12 California Energy Commission, dated October 16, 2001, attached to Respondent's Answer as  
13 Exhibit O, is a true and correct copy of what it purports to be and can be admitted into evidence  
14 without the sponsorship of either party to the letter.

15 JJ. The Draft Conditional Waiver of Waste Discharge Requirements, California  
16 Regional Water Quality Control Board, Lahontan Region, dated Nov. 9, 2001, attached to  
17 Respondent's Answer as Exhibit T, is a true and correct copy of what it purports to be and can be  
18 admitted into evidence without the sponsorship of the RWQCB.

19 KK. The Draft CEQA Addendum, California Regional Water Quality Control Board,  
20 Lahontan Region, dated October 23, 2001, attached to Respondent's Answer as Exhibit V, is a  
21 true and correct copy of what it purports to be and can be admitted into evidence without the  
22 sponsorship of the RWQCB.

23 **II. DISPUTED ISSUES**

24 HDPP's contentions in response to each of the allegations before the Committee  
25 are set forth in detail in HDPP's Answer to Complaint. HDPP's contentions, proposed witnesses  
26 and exhibits are summarized below.

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1           A.       **Compliance with Soil & Water Condition of Certification 1(e)**

2                   1.       **HDPP's Contention**

3                   HDPP disputes Mr. Ledford's claim that HDPP has "oversized" the Project's  
4 water supply facilities to allow for more water than the Project requires. The AFC specified, and  
5 the Commission approved, a water supply pipe with a diameter of 24 inches or less. The  
6 Commission specifically determined that this size of pipe was required to meet the needs of the  
7 Project. HDPP has not modified Project design specifications in this regard, and plans to  
8 construct water supply facilities with a pipe of 24 inches in diameter.

9                   2.       **HDPP's Proposed Witnesses<sup>1</sup>**

10                   a.       Andrew Welch<sup>2</sup>: Mr. Welch will provide testimony that the  
11 Project's water supply facilities are sized to meet the needs of the Project. Mr. Welch will  
12 further testify that nothing related to the design parameters of the Project's piping size has  
13 changed since the Project siting committee first received testimony that the design plan for the  
14 piping consists of a 24-inch pipe designed to meet peak flow for the Project's needs only. Mr.  
15 Welch will also testify, as needed, to any other matters relating to the size of the Project's water  
16 supply facilities.

17                   3.       **HDPP's Proposed Exhibits<sup>3</sup>**

- 18                   a.       Prepared testimony of Mr. Welch, as summarized above.  
19                   b.       Commission Decision.  
20                   c.       Declaration of Andrew Welch, January 7, 2002 (Exhibit B).<sup>4</sup>  
21                   d.       Hearing Transcript, February 18, 2000 (Exhibits G, I, J).

22  
23  
24 <sup>1</sup> HDPP reserves the right not to call witnesses identified in this Position Statement, and the  
right to call witnesses not so identified.

25 <sup>2</sup> Mr. Welch's qualifications are attached to this Position Statement.

26 <sup>3</sup> HDPP reserves the right not to sponsor exhibits identified in this Position Statement, and the  
27 right to sponsor exhibits not so identified.

28 <sup>4</sup> Unless otherwise noted, all references to lettered Exhibits are to the "Exhibits in Support of  
HDPP's Answer," filed on January 7, 2002.

1 e. Final Design Drawings submitted to Compliance Project Manager  
2 (Exhibit L).

3 f. Letter from D. Lumma to S. Pearson, March 26, 2001 (Exhibit L).

4 B. **Compliance with Soil & Water Condition of Certification 17(1)**

5 1. **HDPP's Contention**

6 HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 17(1)  
7 which calls for the execution of an ASRA between HDPP and VVWD containing certain  
8 provisions. HDPP and VVWD have, in fact, entered into such an agreement. HDPP has also  
9 ensured that the ASRA is consistent with the Conditions of Certification as they relate to use of  
10 the Project wells.

11 2. **HDPP's Proposed Witnesses**

12 a. Andrew Welch: Mr. Welch will testify regarding HDPP's  
13 contentions stated above. Mr. Welch will also testify, as needed, to any other matters relating to  
14 this issue.

15 3. **HDPP's Proposed Exhibits**

- 16 a. Prepared testimony of Mr. Welch, as summarized above.
- 17 b. Declaration of Andrew Welch, January 7, 2002 (Exhibit B).
- 18 c. Aquifer Storage and Recovery Agreement (Commission Decision  
19 Exhibit 145; Exhibit M).
- 20 d. Letter from T. Barnett to S. Munro, October 4, 2001 (Exhibit N).
- 21 e. Letter from R. Hill to S. Munro, October 16, 2001 (Exhibit O).

22 C. **Compliance with Soil & Water Condition of Certification 19**

23 1. **HDPP's Contention**

24 HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 19 which  
25 requires HDPP to limit VVWD's use of the treatment facilities to providing water to HDPP or  
26 treating State Water Project water for injection into the regional aquifer. The Condition also  
27 places certain restrictions on VVWD in the event it seeks in the future to extract stored water.  
28 As a preliminary matter, the water treatment facilities have not yet been constructed.

1 Furthermore, HDPP has indeed limited VVWD's use of the treatment facilities by contract, and  
2 there is no indication that VVWD has or intends to breach that written agreement.

3 **2. HDPP's Proposed Witnesses**

4 a. Andrew Welch: Mr. Welch will testify regarding HDPP's  
5 contentions stated above. Mr. Welch will also testify, as needed, to any other matters relating to  
6 this issue.

7 **3. HDPP's Proposed Exhibits**

- 8 a. Prepared testimony of Mr. Welch, as summarized above.  
9 b. Declaration of Andrew Welch, January 7, 2002 (Exhibit B).  
10 c. Aquifer Storage and Recovery Agreement (Exhibit M;  
11 Commission Decision Exhibit 145).  
12 d. Letter from T. Barnett to S. Munro, October 4, 2001 (Exhibit N).  
13 e. Letter from R. Hill to S. Munro, October 16, 2001 (Exhibit O).

14 **D. Compliance with Soil & Water Condition of Certification 12**

15 **1. HDPP's Contention**

16 HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 12 by not  
17 using the proper type of water treatment facilities. HDPP further disputes Mr. Ledford's claims  
18 that the proposed treatment will not result in water "approaching background water quality  
19 levels." The Commission Decision did not specify any particular method of water treatment.  
20 HDPP's treatment plan will result in water that approaches background levels in the receiving  
21 aquifer, and meets all applicable drinking water standards.

22 **2. HDPP's Proposed Witnesses**

23 a. Andrew Welch: Mr. Welch will testify that HDPP has proposed a  
24 water treatment plan that specifies the type and characteristics of the treatment processes, and  
25 complies with the requirements of Condition 12. Mr. Welch will testify as to the proposed  
26 treatment methodology. Mr. Welch will also testify, as needed, to any other matters relating to  
27 the treatment of water.  
28

1                   b.     Tom Regan<sup>5</sup>: Mr. Regan will testify as to the methodology,  
2 analysis and conclusions set forth in the following exhibits: i) Report of Waste Discharge and  
3 Antidegradation Analysis, May 2001 (Exhibit P); ii) Supplemental Report of Waste Discharge,  
4 June 20, 2001 (Exhibit Q); iii) Supplemental Report of Waste Discharge, June 29, 2001  
5 (Exhibit R); iv) Supplemental Report of Waste Discharge, July 30, 2001 (Exhibit S); and v)  
6 Supplemental Antidegradation Analysis, August 23, 2001 (Exhibit U). Mr. Regan will testify  
7 that, in his expert opinion, HDPP treated water will meet all applicable drinking water standards,  
8 and will approach background levels of the receiving aquifer. Mr. Regan will also testify that, in  
9 his expert opinion, any increased levels of TDS in HDPP treated water, relative to background  
10 water quality levels, is insignificant.

11                   3.     **HDPP's Proposed Exhibits**

- 12                   a.     Prepared testimony of Mr. Welch, as summarized above.  
13                   b.     Prepared testimony of Mr. Regan, as summarized above.  
14                   c.     Report of Waste Discharge and Antidegradation Analysis, May  
15                         2001 (Exhibit P).  
16                   d.     Supplemental Report of Waste Discharge, June 20, 2001  
17                         (Exhibit Q).  
18                   e.     Supplemental Report of Waste Discharge, June 29, 2001  
19                         (Exhibit R).  
20                   f.     Supplemental Report of Waste Discharge, July 30, 2001  
21                         (Exhibit S).  
22                   g.     Supplemental Antidegradation Analysis, August 23, 2001  
23                         (Exhibit U).  
24                   h.     Letter from S. Pearson to S. Munro, June 21, 2001 (Exhibit W).  
25                   i.     Letter from S. Larson to H. Singer, September 10, 2001 (Exhibit  
26                         A).

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28 <sup>5</sup> Mr. Regan's qualifications are attached to this Position Statement.

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- j. Draft Conditional Waiver of Waste Discharge Requirements (Exhibit T).
- k. Draft CEQA Addendum, California Regional Water Quality Control Board, Lahontan Region, dated October 23, 2001 (Exhibit V).

E. **Compliance with Soil & Water Condition of Certification 13**

1. **HDPP's Contention**

HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 13, which calls for the implementation of the Water Treatment and Monitoring Plan required by Condition 12. Condition 13 does not require any action to be taken until after the banking program has commenced. As noted above, groundwater banking is not anticipated to occur until approximately September 2002. Thus, HDPP's compliance with this Condition is not ripe for review at this time. The substance of Condition 13 is, nevertheless, addressed above in relation to HDPP's compliance with Condition 12.

2. **HDPP's Proposed Witnesses**

a. Andrew Welch: Mr. Welch will testify regarding HDPP's contentions stated above. Mr. Welch will also testify, as needed, to any other matters relating to this issue.

3. **HDPP's Proposed Exhibits**

- a. Prepared testimony of Mr. Welch, as summarized above.
- b. Prepared testimony of Mr. Regan, as summarized above.
- c. Report of Waste Discharge and Antidegradation Analysis, May 2001 (Exhibit P).
- d. Supplemental Report of Waste Discharge, June 20, 2001 (Exhibit Q).
- e. Supplemental Report of Waste Discharge, June 29, 2001 (Exhibit R).

- 1 f. Supplemental Report of Waste Discharge, July 30, 2001
- 2 (Exhibit S).
- 3 g. Supplemental Antidegradation Analysis, August 23, 2001
- 4 (Exhibit U).
- 5 h. Letter from S. Pearson to S. Munro, June 21, 2001 (Exhibit W).
- 6 i. Letter from S. Larson to H. Singer, September 10, 2001 (Exhibit
- 7 A).
- 8 j. Draft Conditional Waiver of Waste Discharge Requirements
- 9 (Exhibit T).
- 10 k. Draft CEQA Addendum, California Regional Water Quality
- 11 Control Board, Lahontan Region, dated October 23, 2001 (Exhibit
- 12 V).

13 F. **Compliance with Soil & Water Condition of Certification 2**

14 1. **HDPP's Contention**

15 HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 2 which  
16 requires HDPP to submit a copy of the Water Storage Agreement, once executed, between the  
17 Watermaster and VVWD prior to commencing groundwater banking. This issue is not ripe for  
18 review as the Water Storage Agreement is not required to be submitted until just prior to the  
19 initiation of groundwater banking. Groundwater banking is not expected to occur until  
20 September 2002.

21 2. **HDPP's Proposed Witnesses**

22 a. Andrew Welch: Mr. Welch will testify regarding HDPP's  
23 contentions stated above. Mr. Welch will also testify, as needed, to any other matters relating to  
24 this issue.

25 3. **HDPP's Proposed Exhibits**

26 a. HDPP does not intend to sponsor any exhibits relating to this  
27 issue.

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1           **G.     Compliance with Soil & Water Condition of Certification 11**

2                   **1.     HDPP's Contention**

3                   HDPP disputes Mr. Ledford's claims that HDPP has violated Condition 11 which  
4 requires HDPP to submit a copy of an approved Waste Discharge Requirement ("WDR") prior to  
5 the start of groundwater banking, unless the RWQCB decides to waive the need to issue a waste  
6 discharge requirement or waive the need for the Project owner to file a Report of Waste  
7 Discharge. HDPP cannot possibly be in violation of this Condition. First, groundwater banking  
8 has not commenced and is not expected to commence until September 2002. Since the trigger  
9 date for this obligation is "prior to the start of any groundwater banking," there is no basis to  
10 claim that HDPP has not complied with this Condition. Second, the Condition expressly  
11 eliminates the obligation to submit the approved waste discharge requirement in the event that  
12 the RWQCB decides to waive the need to issue a waste discharge requirement. This, in fact, is  
13 what the RWQCB staff has proposed to do. HDPP submitted to the RWQCB a Report of Waste  
14 Discharge in May 2001, and has submitted a number of supplements since that time. The  
15 Regional Board is expected to rule on this draft Conditional Waiver of WDR shortly, possibly at  
16 its February 2002 meeting.

17                   **2.     HDPP's Proposed Witnesses**

18                   a.     Andrew Welch: Mr. Welch will testify regarding HDPP's  
19 contentions stated above. Mr. Welch will also testify, as needed, to any other matters relating to  
20 this issue.

21                   **3.     HDPP's Proposed Exhibits**

- 22                   a.     Prepared testimony of Mr. Welch, as summarized above.  
23                   b.     Report of Waste Discharge and Antidegradation Analysis, May  
24                         2001 (Exhibit P).  
25                   c.     Supplemental Report of Waste Discharge, June 20, 2001  
26                         (Exhibit Q).  
27                   d.     Supplemental Report of Waste Discharge, June 29, 2001  
28                         (Exhibit R).

- 1 e. Supplemental Report of Waste Discharge, July 30, 2001
- 2 (Exhibit S).
- 3 f. Supplemental Antidegradation Analysis, August 23, 2001
- 4 (Exhibit U).
- 5 g. Letter from S. Pearson to S. Munro, June 21, 2001 (Exhibit W).
- 6 h. Letter from S. Larson to H. Singer, September 10, 2001 (Exhibit
- 7 A).
- 8 i. Draft Conditional Waiver of Waste Discharge Requirements
- 9 (Exhibit T).
- 10 j. Draft CEQA Addendum, California Regional Water Quality
- 11 Control Board, Lahontan Region, dated October 23, 2001 (Exhibit
- 12 V).
- 13 k. Letter from Steve Munro, California Energy Commission, to Neal
- 14 Parece, High Desert Power Project, dated May 17, 2001 (Exhibit
- 15 K).

16 **III. Time Required to Present Direct Testimony by Each Witness**

17 A. **Andrew Welch:** HDPP expects that Mr. Welch’s direct testimony will take less  
18 than one hour. Mr. Welch’s testimony on redirect will be dependent on the scope of cross-  
19 examination by Mr. Ledford.

20 B. **Tom Regan:** HDPP expects that Mr. Regan’s direct testimony will take less than  
21 one hour. Mr. Regan’s testimony on redirect will be dependent on the scope of cross-  
22 examination by Mr. Ledford

23 **IV. HDPP’S EVIDENCE OF COMPLIANCE REGARDING SUBMISSION OF**  
24 **DOCUMENTS**

25 Pursuant to the Committee’s “Notice of Pre-Hearing Conference and Order to  
26 Produce Compliance Documents,” dated December 18, 2001, HDPP hereby provides the  
27 following information regarding the referenced documents.

28

1           A.     **Final Design Drawings Of The Project's Water Supply Facilities (Condition**  
2 **1(e))**

3                   1.     When Document Is/Was Due  
4                   30 days prior to construction. Construction began on May 17, 2001, pursuant to  
5 authorization of Steve Munro (Exhibit K).

6                   2.     When Document Was/Will Be Submitted  
7                   HDPP submitted Final Design Drawings for the Project's water supply facilities  
8 to the Commission on March 27, 2001 (Exhibit L). The final design was revised by the Report  
9 of Waste Discharge and Antidegradation Analysis, May 2001 (Exhibit P), which was submitted  
10 in June 2001. The final design was further revised with the submittal of additional information  
11 on January 10, 2002.

12           B.     **Water Storage Agreement (For The Project's Cooling Water) With The**  
13 **Mojave Basin Area Watermaster (Mojave Water Agency) (Condition 2)**

14                   1.     When Document Is/Was Due  
15                   Prior to initiation of groundwater banking. Groundwater banking is expected to  
16 commence in September 2002.

17                   2.     When Document Was/Will be Submitted  
18                   The Water Storage Agreement has not been entered into as of this date. It will be  
19 submitted prior to groundwater banking.

20           C.     **Waste Discharge Requirement From The Lahontan Regional Water Quality**  
21 **Control Board (Condition 11)**

22                   1.     When Document Is/Was Due  
23                   Condition 11 requires HDPP to submit a copy of an approved Waste Discharge  
24 Requirement prior to the start of groundwater banking, unless the RWQCB decides to waive the  
25 need to issue a waste discharge requirement or waive the need for the Project owner to file a  
26 Report of Waste Discharge.

27     ///  
28     ///

1                   2.       When Document Was/Will be Submitted

2                   The RWQCB staff has proposed that the RWQCB adopt a Conditional Waiver of  
3 Waste Discharge Requirements (Exhibit T). HDPP expects that the RWQCB will adopt the draft  
4 Conditional Waiver of Waste Discharge Requirements, possibly at its February 2002 meeting.  
5 HDPP will submit the Conditional Waiver of Waste Discharge Requirements upon the RWQCB  
6 issuance of same.

7           D.       **Water Treatment and Monitoring Plan (Condition 12)**

8                   1.       When Document Is/Was Due

9                   90 days prior to groundwater banking. Groundwater banking is expected to  
10 commence in September 2002.

11                   2.       When Document Was/Will be Submitted

12                   The Water Treatment and Monitoring Plan will be submitted 90 days prior to  
13 groundwater banking. HDPP notes that the Report of Waste Discharge and Antidegradation  
14 Analysis for the Proposed High Desert Power Project Groundwater Banking Operation, dated  
15 May 2001, the Supplemental Reports of Waste Discharge, dated June 20, 2001, June 29, 2001  
16 and July 30, 2001, and the Supplemental Antidegradation Analysis, dated August 23, 2001,  
17 submitted by HDPP to the RWQCB and the Commission, include virtually all, if not all, the  
18 elements required to be included in the Water Treatment and Monitoring Plan specified in  
19 Condition 12.

20           E.       **Implementation of Water Treatment and Monitoring Plan (Condition 13)**

21                   1.       When Document Is/Was Due

22                   Monitoring results of Water Treatment and Monitoring Plan, as described in  
23 Condition 12 above are due annually. Groundwater banking is not expected to commence until  
24 at least September 2002.

25                   2.       When Document Was/Will be Submitted

26                   HDPP will submit its first annual report regarding the implementation of the  
27 Water Treatment and Monitoring Plan required by Condition 12 sometime after the first year of  
28 groundwater banking operations. If groundwater banking commences as expected in September

1 2002, HDPP's first annual report will be submitted sometime after September 2003.

2 **F. Aquifer Storage Recovery Agreement (Condition 17)**

3 1. When Document Is/Was Due

4 Prior to commencing construction on the Project. Construction on the Project  
5 commenced on May 17, 2001.

6 2. When Document Was/Will be Submitted

7 The Aquifer Storage and Recovery Agreement was docketed by HDPP on  
8 February 10, 2000 and admitted into evidence on February 18, 2000 as Commission Decision  
9 Exhibit 145 (Exhibit M).

10 **G. Water Storage Agreement between Mojave Water Agency And VVWD That**  
11 **Allows VVWD Or Another Entity To Use The Project's Water Treatment Facilities For**  
12 **Uses Other Than The Project and Aquifer Recharge (Condition 19)**

13 1. When Document Is/Was Due

14 Within 30 days of its execution.

15 2. When Document Was/Will be Submitted

16 To the best knowledge of HDPP, no such agreement has been entered into.

17 **H. Amendment to the Commission Decision That Would Allow VVWD Or**  
18 **Another Entity To Use The Project's Water Treatment Facilities For Domestic Purposes**  
19 **(Condition 19)**

20 1. When Document Is/Was Due

21 Condition 19 does not require that an amended or new water storage agreement to  
22 allow use of the Project facilities for domestic purposes be submitted to the Commission. It does  
23 require, however, that before any such agreement can be entered into, it must be preceded by an  
24 amendment of the Commission Decision.

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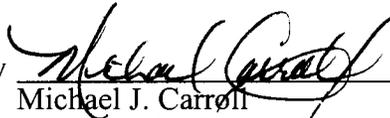
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2. When Document Was/Will be Submitted

HDPP does not seek or expect to seek any such amendment to the Commission Decision.

Dated: January 11, 2002

LATHAM & WATKINS

By   
Michael J. Carroll  
Attorneys for Respondent  
High Desert Power Project, LLC

## **ANDREW C. WELCH**

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Mr. Welch has over 13 years of experience in the development, construction, and operation of independent power plants. In addition to California, activities have been carried out in several states across the country.

### **PROFESSIONAL HISTORY**

Constellation Power Source, Inc  
Baltimore, MD (Newport Beach, CA)  
Vice President

AC Energy (consultant)  
Irvine, CA  
Principal

Diamond Energy, Inc.  
Los Angeles, CA  
Business Development Manager

Atlantic Generation, Inc.  
Mays Landing, NJ  
Asset Manager

Cogeneration Partners of America  
Cherry Hill, NJ  
Project Manager

### **RELEVANT PROJECT EXPERIENCE**

Mr. Welch has served as Project Director for the High Desert Power Project since 1994. He has been personally involved in the planning, preliminary design, and permitting of the project. In that role he has functioned as representative and spokesman for the project during multiple public meetings, including Energy Commission siting workshops. He was an integral member of the project team, and as such had multiple consultants and experts reporting to him.

Mr. Welch was personally involved in the preparation and submittal of the project's AFC. He supervised the responses to the data requests and other discovery activities. He was also present at all of the evidentiary hearings, and testified during them.

### **EDUCATION**

B.S. Mechanical Engineering  
Rutgers University, New Brunswick, NJ

**REGISTRATION**

New Jersey, Professional Engineer

Mr. Regan has over 16 years' experience in the areas of hydrogeology, engineering and environmental geology; and two years' experience in exploration and mining geology. Most of his work has been performed in California, southern Nevada, New Mexico, Utah and Arizona. Mr. Regan is recognized for his broad background in geology and technical expertise in these specialized fields. Mr. Regan is a California Registered Geologist, Certified Engineering Geologist and Certified Hydrogeologist.

## **PROFESSIONAL HISTORY**

Bookman-Edmonston (the Water Resources practice of Navigant Consulting, Inc.)  
Principal Hydrogeologist

Law Engineering, Inc.  
Project Environmental Geologist

LeRoy Crandall & Associates,  
Staff Geologist

Southern California Edison Company  
Engineering Geologist

Cyprus Mines Corporation  
Research Geologist

Eureka Consolidated Development Corporation  
Exploration and Mining Geologist

North American Refractories Company  
Mineralogist

## **RELEVANT PROJECT EXPERIENCE**

### **Hydrogeology / Water Resources**

Since 1997, performed the following hydrogeologic services on behalf of the High Desert Power Project in Victorville, a proposed 720 megawatt electrical power plant, as part of the California Energy Commission (CEC) permitting of the power plant:

- Assisted in the development of a water supply plan
- Provided conceptual design of an innovative groundwater banking program consisting of the delivery and treatment of imported SWP water and the construction of seven dual purpose injection/extraction wells.
- Assisted in the preparation of the Draft and Final Application for Certification (AFC) to the CEC related to soils and geology and water resources

- Prepared a Report of Waste Discharge (RWD) and Anti-degradation Analysis to the Lahontan RWQCB related to obtaining a Waiver of Waste Discharge Requirements for the proposed groundwater banking operation. The RWD included discussions on SWP and groundwater quality, the proposed groundwater banking operation, groundwater quality modeling to evaluate potential injection water quality impacts on the local groundwater, description of the proposed injection water treatment process treatment, monitoring and reporting program, water treatment contingency plan and an anti-degradation analysis
- Assisted in the preparation of cumulative impact studies associated with the proposed groundwater banking operation
- Coordinated and supervised the performance and analysis of seven aquifer tests to estimate the hydraulic characteristics of the regional aquifer in support of groundwater modeling studies
- Assisted in the preparation of the Draft EIS related to water resources
- Participated in public workshops related to water resources issues associated with power plant operation
- Provided expert witness testimony before the CEC board in evidentiary hearings on soils and geology and water resources issues associated with power plant permitting.

Supervised the development and implementation of the groundwater monitoring element of Calleguas Creek Watershed Characterization Study in Ventura County. Work performed as part of this on-going Study includes:

- Preparation of a background report on the geology, hydrogeologic and water quality characteristics of the seven groundwater basins comprising the watershed
- Preparation of a groundwater monitoring plan
- Preparation of a Sampling and Analysis Plan and Quality Assurance Project Plan
- Supervision of monitoring well installation and equipping with dedicated submersible pumps and motors
- Supervision of groundwater monitoring and evaluation of water quality data
- Presentation of groundwater monitoring data at various stakeholder meetings

Prepared specifications, design drawings, and performed construction management /oversight services related to the siting, drilling, installation, development and testing of more than 50 irrigation and municipal production wells in central and southern California with production capacities ranging between 250 and 6,000 gpm.

Performed a water resources and economic benefits analysis related to the delivery of State Water Project water for a 230-square mile irrigation service district in the southern San Joaquin Valley

Performed comprehensive editing of the draft Montebello Forebay Engineering Report for submittal to State regulatory agencies in support of the reclaimed water recharge permit renewal at the Montebello Forebay spreading facilities. The work entailed the detailed revision of the geologic and hydrogeologic portions of the draft report including preparation

of shallow depth geologic cross sections, surficial soils maps and analyses of historic recharge basin percolation rates.

Designed and supervised the drilling, installation, development and equipping (with dedicated pumps and pressure transducers) of two dual-completion monitoring wells at the Rio Hondo Spreading Grounds in Rico Rivera to assess the hydraulic and chemical characteristics of artificially recharged reclaimed water on the underlying aquifer.

Performed geologic and hydrogeologic analyses of various properties in support of condemnation proceedings for the construction of the Eastside (formerly Domenigoni Valley) Reservoir project in Riverside County. Provided expert witness testimony in depositions on behalf of Metropolitan Water District of Southern California.

Performed well redevelopment and/or rehabilitation consultation and oversight on more than 15 municipal and irrigation wells throughout central and southern California. Work included the review of video logs, development of well rehabilitation procedures and oversight of rehabilitation activities, follow-up performance testing and review of post-rehabilitation video logs.

Supervised the inspection and rehabilitation of approximately 18 monitoring wells at the Palmdale and Lancaster Water Reclamation Plants.

Supervised the construction of a one quarter-acre test percolation basin as part of a multi-year USGS study to evaluate the degradation/attenuation of nitrate in the vadose zone and shallow groundwater environment due to the recharge of recycled water.

Prepared hydrologic inventories of groundwater basins in the development of groundwater models and "safe yield" evaluations in San Bernardino, Ventura and Kern Counties.

Performed well feasibility analyses to provide guidance on the siting, depth and potential water quality make-up of proposed municipal water supply wells.

Performed geologic/hydrogeologic and travel time analyses for 23 municipal water supply wells situated within 500 feet of the Rio Hondo and San Gabriel River spreading grounds to evaluate the potential movement of reclaimed water spread to the wells.

Performed well interference evaluations in support of potential water rights litigation and water resources development in Los Angeles and San Bernardino counties.

### **Environmental Geology**

Performed third-party evaluations of numerous state (Cal EPA) and federal (US EPA) lead-contaminated site investigations to assist these agencies in the design and implementation of appropriate remedial actions.

Prepared a conceptual groundwater monitoring plan related to the phased development of water resources in a proposed 8,700 acre multi-use development project in eastern Sacramento County located adjacent to three US EPA Superfund sites.

Prepared a sampling and analysis plan for the groundwater monitoring activities performed as part of the permitting of the artificial recharge operations in the Whittier Narrows area of Los Angeles County.

Prepared a sampling and analysis plan for the groundwater monitoring activities to be performed at the Geo East Mesa geothermal development project in Imperial County.

Performed a preliminary water quality assessment of the groundwater underlying the Geo East Mesa geothermal development project in response to regulatory agency concerns regarding leakage from geothermal brine surface impoundments.

Investigated and prepared evaluations of leaking underground storage tank sites, landfills and US EPA/Cal EPA Superfund sites impacting groundwater in the Whittier Narrows area.

Managed and conducted water quality monitoring of 74 wells at the Mohave Generating Station, a coal-fired electrical generating facility, in southern Nevada impacted by high salinity cooling tower blowdown groundwater contamination.

Supervised the construction, development, and testing of groundwater monitoring wells at variously contaminated sites in southern California and southern Nevada.

Assisted in the design, construction and sampling of 12 vadose monitoring wells surrounding a large wastewater storage impoundment at the Coolwater Generating Station near Daggett in San Bernardino County.

Managed and conducted numerous Phase I and II environmental site assessments throughout California and New Mexico to evaluate the potential for and/or extent of surface and subsurface soils and/or groundwater contamination as part of potential/actual property sales/transfers.

Coordinated with the appropriate regulatory agencies for the proper chemical testing, notification, and storage, labeling, and disposal of hazardous materials encountered during remedial site investigations.

Supervised the permitting, testing, removal, and disposal of underground storage tanks at gasoline service stations and industrial facilities.

Developed design criteria for the extraction, treatment, and disposal of solvent- and fuel-contaminated groundwater at a former multi-use industrial site.

Coordinated with the appropriate regulatory agencies in setting target "clean up" levels for contaminants encountered in groundwater at several sites relative to known regional groundwater contamination.

Prepared health and safety plans, quality assurance project plans, and field sampling and analysis plans for environmental site assessments and other remedial investigation studies.

Performed quarterly groundwater and vadose zone monitoring at several active and inactive landfills in the San Fernando and San Gabriel Valleys of Los Angeles County.

Prepared Solid Waste Assessment Test (SWAT) and quarterly monitoring reports for several active and inactive landfills.

Supervised canyon "cleanout" operations and the destruction of an abandoned oil well as part of the expansion of an existing municipal landfill.

### **Engineering Geology**

Performed litigation support geotechnical evaluations of several properties located in Imperial County related to potential high groundwater/flooding potentially associated with fluctuating water levels in the Salton Sea. Work performed included property inspections, limited subsurface exploration, soils sampling and geotechnical/chemical analysis, installation of groundwater monitoring wells, data interpretation and preparation of reports.

Performed a preliminary geotechnical evaluation of soil and rock conditions encountered along several proposed water conveyance pipeline alignments in central Arizona.

Performed geotechnical oversight on a geologic hazards evaluation for the proposed 50-mile Spanish Fork-Nephi water conveyance pipeline/storage tank alignment in central Utah.

Developed and performed a geotechnical soil sampling and testing program for a proposed Gila River realignment project in southwestern Arizona.

Performed a geologic/geologic hazard evaluation of six proposed deep pit groundwater recharge sites near San Bernardino to evaluate the potential for static and seismically induced slope failure, ground rupture, liquefaction and flooding.

Supervised and conducted numerous geologic and geotechnical field investigations related to the siting of housing developments, hospitals, fire stations, water storage tanks, high-voltage electrical transmission towers, and multi-story office buildings.

Supervised and conducted several Alquist-Priolo Special Studies Zone fault investigations related to the expansion of the Wayside Honor Rancho in Los Angeles County.

Performed a preliminary geotechnical evaluation of a proposed hydroelectric dam and reservoir site and penstock alignment in the southern Sierra Nevada Mountains of California.

Conducted geologic investigations related to slope failures adjacent to electrical transmission facilities. Developed remedial methods for stabilizing slopes adjacent to these facilities.

Conducted a geologic evaluation of tunnel lining and wall rock conditions of several miles of a hydroelectric power tunnel along the Kern River in Kern County. Areas of structural weakness or deterioration in tunnel lining and/or wall rock were noted and delineated for appropriate remedial action.

Conducted preliminary engineering geologic evaluations of several proposed sand and gravel mining operations in the Mojave Desert. Design criteria were developed in conjunction with Surface Mining and Reclamation Act (SMARA) and other regulatory agency guidelines to maximize the quantity of ore to be extracted and minimize the potential for flooding, and static and seismically induced slope failure.

Performed a geotechnical investigation and feasibility analysis of seven potential compressed-air energy storage sites in San Diego County.

Supervised a subsurface geotechnical investigation for a proposed 20-square-mile groundwater recharge / recovery operation. Work entailed the logging of approximately 90 test pits, correlation of possible "hardpan" layers and providing recommendations for siting spreading basins for groundwater recharge in Madera County.

#### **Water System/Production Well Valuations**

Performed a due diligence production well inspection and conditions assessment of the Rio Rancho Utilities Corporation water system as part of condemnation proceedings by the City of Rio Rancho, New Mexico. The assessment included the inspection of the water system's 18 active production wells, review of operation and maintenance records, well completion data, historic groundwater production, historic water quality and disinfection methods, and provided recommendations for production well rehabilitation or water system improvements to meet future production and / or water quality requirements.

Performed inspections and well reproduction cost new analysis of the City of San Jose municipal water system. The valuation entailed the inspection appraisal, and reproduction cost new analysis of the City's 14 production wells.

Performed inspection and well reproduction cost new analysis of the water distribution system at the Sunrise Country Club in Rancho Mirage. The valuation entailed the inspection, appraisal and reproduction cost new analysis of the single irrigation well, and booster pump system.

**EDUCATION**

Graduate Studies in Geology, California State University, Los Angeles, CA  
B.A., Geological Sciences, University of California, Santa Barbara, CA

**PROFESSIONAL ASSOCIATIONS**

Registered Geologist, California No. 5203  
Certified Engineering Geologist, California No. 1655  
Certified Hydrogeologist, California No. 327  
Association of Ground Water Scientists and Engineers,  
National Ground Water Association  
Society of Economic Paleontologists and Mineralogists

**STATE OF CALIFORNIA**

**Energy Resources  
Conservation and Development Commission**

In the Matter of: )  
 )  
COMPLAINT OF GARY LEDFORD ON )  
HIGH DESERT POWER PROJECT ) **PROOF OF SERVICE**  
WATER ISSUES ) [Revised 12/28/01]  
 )  
 )  
\_\_\_\_\_ )

I, Paul Kihm, declare that on January 11, 2002, I distributed copies of the attached:

**RESPONDENT HDPP'S POSITION STATEMENT**

via electronic transfer (e-mail) and by depositing copies with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION  
DOCKET UNIT, MS-4  
Attn: Docket No. 97-AFC-1C (C1)  
1516 Ninth Street, MS-4  
Sacramento, California 95814-5512  
Email: docket@energy.state.ca.us

via electronic transfer (e-mail) and by depositing copies with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

COMPLAINANT

**Gary A. Ledford**  
The Jess Ranch  
11401 Apple Valley Road  
Apple Valley, California 92308  
jessranch@attglobal.net

HIGH DESERT POWER PROJECT  
CEC Docket No. 97-AFC-1C (C1)

**PROOF OF SERVICE LIST**

**RESPONDENT**

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tbarnett@conpwr.com

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Michael.carroll@lw.com

**INTERVENORS**

**Marc D. Joseph, Esq.**

California Unions for  
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mdjoseph@adamsbroadwell.com

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Los Angeles, California 90012  
chollo@ladwp.com

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Victor Valley Water District  
17185 Yuma Street  
Victorville, California 92392  
randyhill@vwwd.org

HIGH DESERT POWER PROJECT  
CEC Docket No. 97-AFC-1C (C1)

**PROOF OF SERVICE LIST**

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**Kirby Brill**

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Apple Valley, California 92307  
kirbyb@mojavewater.org

**Hisam Baqai**

Lahontan Regional Water Quality Control Board  
15428 Civic Drive, Suite 100  
Victorville, California 92392-2383  
hbaqai@rb6v.swrcb.ca.gov

**Patricia Moser**

Assistant to City Manager  
City of Barstow  
220 East Mountain View Street, Suite A  
Barstow, California 92311-2888  
pmoser@barstowca.org

**Jon Roberts**

City Manager  
City of Victorville  
14343 Civic Drive  
Victorville, California 92392  
jroberts@ci.victorville.ca.us

**Darrell Wong**

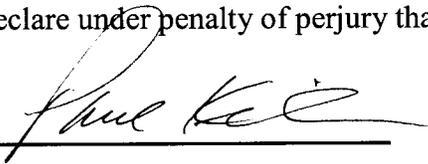
California Department of Fish and Game  
Region 6, Environmental Services  
407 W. Line Street  
Bishop, California 93514  
dwong@dfg.ca.gov

HIGH DESERT POWER PROJECT  
CEC Docket No. 97-AFC-1C (C1)

**PROOF OF SERVICE LIST**

**Nancee Murray**  
California Department of Fish and Game  
Legal Affairs Division  
1416 Ninth Street, 12th Floor  
Sacramento, California 95814  
nmurray@dfg.ca.gov

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Paul Kihm", is written over a horizontal line.

Paul Kihm