

STATE OF CALIFORNIA
Energy Resources
Conservation and Development Commission

In the Matter of:)	Docket No. 97-AFC-1
)	
Application for Certification)	
for the High Desert Power Project)	
_____)	

Comments of the Department of Fish and Game on
Testimony Submitted for the Hearing on February 18, 2000
For the High Desert Power Project

The Department of Fish and Game (DFG) has reviewed the testimony of Commission staff dated February 10, 2000 and the testimony received to date from other parties in this application. Neither of the two witnesses previously offered by DFG in this proceeding are available on February 18, 2000, so DFG decided not to submit written testimony for this phase of the proceedings. In place of such testimony, DFG is submitting these comments to inform the Commission and other parties of DFG's position on the issues raised in the Commission's notice dated February 1, 2000. These comments also specifically support portions of the testimony submitted by Commission staff.

BACKGROUND

As a property owner within the Mojave River basin and as a regulatory and trustee agency with jurisdiction over fish and wildlife resources, DFG has been an active party to the Mojave River Adjudication and trial. The overdrafting of the surface and ground waters in this basin has severely impacted the riparian corridor of the river and the fish and wildlife that depend on the river. The threats to these resources will continue as long as the conditions of the judgment after trial remain unrealized.

In the area of Victorville, the loss to riparian habitat is the result of overpumping of groundwater, particularly from wells close to or within the riverbed aquifer. Reduction of this pumping is possible to some degree. DFG's fish hatchery has been able to maintain production but cut pumping by about 30 percent. At some point, pumping reductions create such substantial

social and economic problems that other approaches are needed. In the case of the High Desert Power Project (HDPP), it was thought by some that reclaimed water was a simple solution. Overlooked was the hydrologic fact that any diversion of flows into a desert river deprive downstream users and natural resources. The option now left is importation of water. In earlier hearings, DFG proposed the use of dry cooling, which it still favors in water deficient areas. When this alternative was rejected, DFG proposed HDPP use and bank State Water Project water. DFG continues to support this use of imported water as a practical solution for the power plant project.

VVWD USE AND OWNERSHIP OF PROJECT WELLS

DFG representatives discussed, both with the Victor Valley Water District (VVWD) and Commission staff, concerns that unrestricted use of project wells by VVWD for non-project purposes could exacerbate over-pumping from the aquifer and additional decline in the Mojave River flow. The proposed condition at Soil&Water 17 is designed to avoid this result by ensuring that any VVWD production from project wells for non-project purposes will be offset by a corresponding reduction of production from VVWD wells closer to the river.

Soil&Water 17, while conceptually sound, has an inherent weakness as a stand-alone condition. Because VVWD is not subject to the Commission's conditions of certification, the limitations on VVWD's use of project facilities must be imposed and enforced indirectly by way of an agreement between HDPP and VVWD. This difficulty in administering Soil&Water 17 is compounded by the fact that HDPP and VVWD intend (as evidenced by the draft Aquifer Storage and Recovery Agreement) that VVWD will hold title to the wells, treatment plant and appurtenant water facilities that are constructed for this project. As a result, when HDPP ceases operations, the agreement between VVWD and HDPP may no longer be effective in limiting VVWD use of project facilities.

DFG therefore strongly supports Commission staff's recommendations that Soil&Water 7 be added to require HDPP to retain ownership of facilities that it constructs and that the verification for Soil&Water 6 be changed to require that disposition of water facilities be addressed in the closure plan. HDPP's ownership of the project wells will greatly improve the Commission's ability to ensure that those wells are used in a manner consistent with Soil&Water 17 so as not to adversely affect the Mojave River, especially in the event HDPP ceases operations prior to the planned 30-year life of the project.

DFG supports the correction to Soil&Water 6(b) proposed by Commission staff in its errata dated February 15, 2000. DFG would further recommend, for the sake of clarity, that the Committee amend Soil&Water 6(a) and 6(b) to include the adjustment required by Soil&Water 5(b) for any VVWD production in excess of the allowed baseline. This might be accomplished by adding the following phrase to both 6(a) and 6(b): "...and minus any amount described in Soil&Water 5(b)."

HDPP OPERATION FOR MORE THAN 30 YEARS

DFG supports the Commission staff's recommendation that Soil&Water 6(d) be added to ensure that water resource impacts from operation of the plant longer than 30 years be evaluated as a condition of extending the project's life. Since the Commission analysis is based on a 30-year project life, this provision is appropriate to ensure that longer-term operations do not adversely affect the Mojave River system.

GROWTH-INDUCING IMPACTS AND VVWD USE OF TREATMENT PLANT

DFG has not been significantly involved in discussions about growth-inducing impacts from the project, including the potential impact on growth of VVWD's use of the project's water treatment plant. The issue of growth-inducing impacts are valid concerns of the Commission and are appropriately addressed by the Commission and its staff. DFG's interest in these issues is narrower than that of the Commission and Commission staff, and primarily focus on whether project-induced growth could result in increased pumping of groundwater in a manner that would adversely affect the Mojave River and its riparian system.

DFG agrees with Commission staff's statement that Soil&Water 5 and Soil&Water 17 should ensure that VVWD's anticipated use of project wells for non-project purposes will not have a growth-inducing impact. Under these conditions, VVWD will not be allowed to use project wells to increase groundwater production. In addition, to the extent VVWD uses the project wells for non-project purposes, pumping will be shifted farther from the Mojave River, which should benefit river flows and riparian habitat.

DFG has not testified on the issue of potential growth-inducing impacts from VVWD's use of the project's water treatment plant. DFG did not understand that HDPP planned to give ownership and use of project water facilities to VVWD until a draft Aquifer Storage and Recovery Agreement was circulated at the Commission's October 7, 1999 hearing. At that time, VVWD represented that it only intended to use project wells on an emergency basis. The applicant and VVWD have since proposed new long-term uses, but have not explored the environmental consequences of these uses. Commission staff accurately states in its testimony that use of the treatment plant for non-project purposes has not been analyzed and could induce growth. Without further analysis of these issues, Commission staff's recommended Soil&Water 17(4) is a clear cut approach to ensuring that the project does not cause significant impacts that have not been analyzed.

BIOLOGICAL RESOURCES (BIO-7)

DFG has reviewed the changes proposed in Condition BIO-7. DFG supports the recommendations of Commission staff for this condition and will incorporate these numbers into its California Incidental Take Permit if they are included in the final conditions of certification for the project.

Thank you for considering these comments. DFG intends to have a representative at the February 18, 2000 hearing, but as explained above, will not be presenting witnesses.

Dated: February 16, 2000

Respectfully submitted by:

Alan Pickard
Department of Fish and Game