



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

FEB 02 2016

Mr. Jim Rexroad  
Vice President  
Avenal Power Center, LLC  
500 Dallas Street, Level 31  
Houston, Texas 77002

Dear Mr. Rexroad,

This letter is in reference to Avenal Power Center, LLC's (APC) application for a Prevention of Significant Deterioration (PSD) permit for the Avenal Energy Project (AEP or Project) in Avenal, California. As you know, on May 27, 2011, EPA initially issued a PSD permit for the AEP, which was administratively amended on June 21, 2011, and which became effective and final on August 18, 2011. On June 26, 2013, EPA granted an extension of the PSD permit's deadline for commencing construction.

On August 12, 2014, the 9<sup>th</sup> Circuit Court of Appeals vacated EPA's 2011 PSD permit decision for the Project and remanded it back to EPA for further proceedings consistent with the Court's decision. Following the issuance of the Court's decision, APC has not provided EPA with any of the information necessary to process APC's remanded PSD permit application, nor has APC confirmed whether it intends to proceed with this PSD permit application before EPA.

In July 2015, we noticed correspondence from APC on the California Energy Commission's (CEC) website describing APC's intent to let its CEC license for the Project expire. The correspondence explained that all of the options that APC is pursuing for the Project differ substantially from the Project as originally licensed by the CEC in 2009. [http://docketpublic.energy.ca.gov/PublicDocuments/08-AFC-01C/TN205170\\_20150626T114304\\_Avenal\\_Energy\\_Project.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/08-AFC-01C/TN205170_20150626T114304_Avenal_Energy_Project.pdf). Given this information indicating that the Project is not currently moving forward, or may substantially change, Lisa Beckham of EPA Region 9's Air Permits Office sent an email to you, dated July 9, 2015, and an email to your counsel, Jane Luckhardt, dated August 13, 2015, in an attempt to determine whether APC intends to proceed with or withdraw its remanded PSD application. To date, we have not received a response to these inquiries.

EPA will consider APC's remanded PSD permit application withdrawn unless APC contacts us within 30 days of the date of this letter to discuss the status of the application and to confirm APC's intent to proceed before EPA with its PSD permit application for the Project, per the Court's remand decision. If the remanded PSD permit application for the AEP is withdrawn, the PSD permit decisionmaking process for the Project that was remanded to EPA by the 9<sup>th</sup> Circuit will be concluded and closed, and notification will be provided to the San Joaquin Valley Unified Air Pollution Control District (District) to this effect. Accordingly, any future PSD permit application for the Project or related projects would

be administered by the District as a result of EPA's 2012 approval of the District's PSD program into California's Clean Air Act State Implementation Plan. See 77 Fed. Reg. 65303 (Oct. 26, 2102).

Please contact Lisa Beckham at [beckham.lisa@epa.gov](mailto:beckham.lisa@epa.gov) or (415) 972-3811 if you have any questions or if you would like to discuss this matter.

Sincerely,

  
for  
Elizabeth Adams  
Acting Director, Air Division

Cc: Jane Luckhardt, Esq.(via email)  
Arnaud Marjollet, SJVUAPCD (via email)