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June 9, 2009

File No. 030137-0012

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-3
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

DOCKET	
07-AFC-3	
DATE	<u>JUN 09 2009</u>
RECD.	<u>JUN 09 2009</u>


Re: CPV Sentinel Energy Project: Docket No. 07-AFC-3

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find a letter from Mark Turner to Melissa Jones regarding emission offset requirements.

Please note that the enclosed submittal was also filed today via electronic mail to your attention.

Very truly yours,


Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 07-AFC-3 Proof of Service List (w/encl., via e-mail)
Michael J. Carroll, Esq. (w/ encl.)



CPV Sentinel, LLC

MARK TURNER
PROJECT MANAGER
Tel: (415) 293-1463
Fax: (415) 957-9886

Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: CPV Sentinel Energy Project (07-AFC-03)

Dear Ms. Jones:

We hereby respond to your letter dated May 7, 2009, wherein you requested additional information regarding how CPV Sentinel, LLC (Applicant) plans to address emission offset requirements for the CPV Sentinel Energy Project (CPV Sentinel) in light of developments in the South Coast Air Quality Management District (SCAQMD) affecting the availability of emission offsets. You have indicated that you plan to use this information to evaluate whether or not it would be appropriate for staff to request that the project siting committee suspend further work on the application.

As you point out in your letter, it was CPV's intention to rely on SCAQMD Rule 1309.1 - Priority Reserve as its source of emission offsets for particulate matter (PM) and sulfur oxides (SOx). As you point out, that option has been precluded for the time being as a result of a ruling in California Superior Court.¹ As a result, CPV has been actively pursuing a number of alternative sources of offsets. As set forth below, there are a number of viable options for satisfying the emission offset requirement for CPV Sentinel, some of which may come to fruition in the very near-term.

On February 27, 2009, California Assembly Member V. Manual Perez introduced Assembly Bill No. 1318 (AB 1318).² As indicated in the Legislative Counsel's Digest to AB 1318, the bill would require the SCAQMD, upon making a specified finding, to transfer a specified quantity of offsets for certain pollutants from the SCAQMD's internal emission offset accounts to eligible electrical generating facilities. On May 13, 2009, AB 1318 was passed by the Assembly Committee on Natural Resources on a vote of 7 to 0. On May 19, 2009, it was passed by the Committee on Utilities & Commerce on a vote of 13 to 0. The bill has now been referred to the Committee on Appropriations. AB 1318 is an urgency bill which would take effect immediately upon being signed by the Governor.

¹ NRDC et al. v. SCAQMD, Case Number B110792.

² AB1318 is available at <http://www.assembly.ca.gov/acs/acsframeset2text.htm> (last visited 5/28/09).



CPV Sentinel, LLC

If adopted, AB 1318 would provide a mechanism for CPV to obtain offsets for CPV Sentinel, and we are actively supporting this proposed legislation.

On February 27, 2009, California Senator Rodney Wright introduced Senate Bill No. 696 (SB 696).³ SB 696 would authorize the SCAQMD to make emission offsets available from its internal emission offset accounts to various types of projects, including electric generating facilities, under specified circumstances. It would further exempt the actions of the SCAQMD from review under the California Environmental Quality Act. SB 696 would provide an alternative legislative solution for CPV Sentinel. SB 696 is also an urgency bill which would take effect immediately upon being signed by the Governor.

CPV Sentinel is participating in the newly established SCAQMD working group that was formed to develop new mechanisms for creating PM offsets. The first mechanism that is being considered by this working group is the generation of offsets from the paving of unpaved roads, as has been done in other California air districts. We understand that proposed rule language has been developed, and that it will be made available by SCAQMD soon. The proposed rule is modeled on other rules which have been adopted in California and Arizona, and in the case of Arizona, approved by EPA into the state implementation plan. The CEC has previously approved projects which have offset their PM emissions through road paving.⁴ CPV Sentinel has worked extensively with the County of Riverside, the City of Desert Hot Springs and the City of Palm Springs, all in the vicinity of the CPV Sentinel site, to identify viable candidate roads for paving. Draft agreements with each municipality are fully negotiated and are pending advancement in the SCAQMD rulemaking process prior to final approval. To date, CPV Sentinel has performed preliminary 24-hour field studies followed by final 96 hour field studies (the 96 hour studies will be required for submittal of formal application to the SCAQMD) on over 40 miles of road.

SCAQMD staff has also committed to clarifying or amending the rules governing its SOx RECLAIM program to allow all electric generating facilities to opt into that program and thereby satisfy their SOx emission offset obligation using SOx RECLAIM Trading Credits (RTCs). SOx RTCs are generally available on the open market. Under current rules, it is clear that electric generating facilities owned by the investor owned

³ SB696 is available at http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_696&sess=CUR&house=B&site=sen (last visited 5/28/09).

⁴ High Desert Power Project (97-AFC-01) and Victorville 2 Hybrid Power Plant (07-AFC-01).



CPV Sentinel, LLC

utilities can opt into the SOx RECLAIM program, but it is less clear that privately owned projects can do so.

As summarized above, CPV is working diligently on its own and with the SCAQMD on a number of alternative sources of emission offsets for CPV Sentinel. We have every reason to believe that one or more of these options will come to fruition and will allow CPV to secure the offsets necessary to complete development of CPV Sentinel. We also note that the evidentiary record on this application has been closed for all areas except for air quality, and with the exception of the need to update its analysis to reflect the final emission offset proposal, staff has also completed its analysis and testimony in the area of air quality. Therefore, staff is not currently expending any resources on this pending application. As you know, Southern California Edison has awarded, and the California Public Utilities Commission has approved, two power purchase agreements for the entire output of CPV Sentinel. CPV Sentinel's Fast Track Power Purchase Agreement with Southern California Edison calls for the earliest on-line date of the power purchase agreements awarded by SCE and SCE has continued to re-iterate the importance of its contracts with CPV Sentinel for grid reliability to State regulators and legislators. Once the emission offset issue has been resolved, SCE, CPV Sentinel and all involved parties will have a strong interest in completing the certification of the project so that construction can get underway. For all of these reasons, the application for CPV Sentinel should remain active and poised for final action.

Thank you for your attention to this matter. Please let me know if you have any further questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark Turner".

Mark Turner

Cc: Mohsen Nazemi, SCAQMD
Mike Carroll, Latham & Watkins, LLP

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

In the Matter of:)	Docket No. 07-AFC-3
)	
Application for Certification,)	PROOF OF SERVICE
for the CPV SENTINEL ENERGY PROJECT)	
)	(February 26, 2009]
)	
)	

Transmission via electronic mail and by depositing one original signed document 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

Attn: DOCKET NO. 07-AFC-3
1516 Ninth Street, MS-15
Sacramento, California 95814-5512
docket@energy.state.ca.us

Transmission via electronic mail addressed to the following:

APPLICANT

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mturner@cpv.com

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CPV SENTINEL ENERGY PROJECT
CEC Docket No. 07-AFC-3

Kathy Rushmore

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INTERESTED AGENCIES

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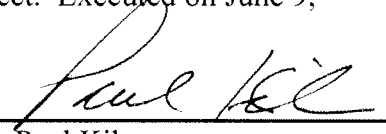
DECLARATION OF SERVICE

I, Paul Kihm, declare that on June 9, 2009, I deposited a copy of the attached:

LETTER FROM MARK TURNER TO MELISSA JONES RE EMISSION OFFSET REQUIREMENTS

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service List above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 9, 2009, at Costa Mesa, California.



Paul Kihm