

# LATHAM & WATKINS<sup>LLP</sup>

650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626-1925  
Tel: +1.714.540.1235 Fax: +1.714.755.8290  
www.lw.com

## FIRM / AFFILIATE OFFICES

Abu Dhabi	Munich
Barcelona	New Jersey
Brussels	New York
Chicago	Orange County
Doha	Paris
Dubai	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Shanghai
London	Silicon Valley
Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.
Moscow	

June 10, 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 JUN 10 2009

RECD. JUN 10 2009


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 (with corrected proof of service).

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

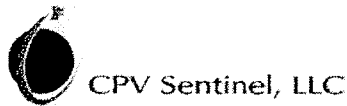
Very truly yours,



Paul E. Kihm  
Senior Paralegal

Enclosure

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



**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.<sup>1</sup> 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).<sup>2</sup> 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.

---

<sup>1</sup> NRDC et al. v. SCAQMD, Case Number B110792.

<sup>2</sup> 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).<sup>3</sup> 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.<sup>4</sup> 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

---

<sup>3</sup> SB696 is available at [http://info.sen.ca.gov/cgi-bin/postquery?bill\\_number=sb\\_696&sess=CUR&house=B&site=sen](http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_696&sess=CUR&house=B&site=sen) (last visited 5/28/09).

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



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", is written in a cursive style.

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]  
)  
)  
\_\_\_\_\_)

APPLICANT

**Mark Turner**  
Project Manager  
CPV Sentinel, LLC  
55 Second Street, Suite 525  
San Francisco, California 94105  
[mturner@cpv.com](mailto:mturner@cpv.com)

**Dale Shileikis**  
Vice President  
URS Corporation  
221 Main Street, Suite 600  
San Francisco, CA 94105-1917  
[dale\\_shileikis@urscorp.com](mailto:dale_shileikis@urscorp.com)

INTERESTED AGENCIES

California ISO  
P.O. Box 639014  
Folsom, CA 95763-9014  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

**Mohsen Nazemi**  
South Coast Air Quality Management District  
21865 E. Copley Drive  
Diamond Bar, California 91765-4178  
[mnazemi@aqmd.gov](mailto:mnazemi@aqmd.gov)

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

ENERGY COMMISSION

**James D. Boyd**

Vice Chair and Presiding Member

[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

**Julia Levin**

Commissioner and Associate Member

[jlevin@energy.state.ca.us](mailto:jlevin@energy.state.ca.us)

**Kenneth Celli**

Hearing Officer

[kcelli@energy.state.ca.us](mailto:kcelli@energy.state.ca.us)

**John Kessler**

Project Manager

[jkessler@energy.state.ca.us](mailto:jkessler@energy.state.ca.us)

**Caryn Holmes**

Staff Counsel

[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)

**Elena Miller**

Public Adviser

[Publicadviser@energy.state.ca.us](mailto:Publicadviser@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Paul Kihm, declare that on June 10, 2009, I served and filed copies of the attached:

**LETTER FROM MARK TURNER TO MELISSA JONES RE EMISSION OFFSET  
REQUIREMENTS (WITH CORRECTED PROOF OF SERVICE)**

to all parties identified on the Proof of Service List above in the following manner:

**California Energy Commission Docket Unit**

- Transmission via electronic mail and by depositing one original paper copy with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

**CALIFORNIA ENERGY COMMISSION**

Attn: DOCKET NO: 07-AFC-3  
1516 Ninth Street, MS-4  
Sacramento, California 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**For Service to All Other Parties**

- Transmission via electronic mail to all email addresses on the Proof of Service list; and
- by depositing one paper copy with the United States Postal Service via first-class mail at Costa Mesa, California, with postage fees thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked "email preferred."

I further declare that transmission via electronic mail and U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 10, 2009, at Costa Mesa, California.

  
\_\_\_\_\_  
Paul Kihm