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

In the Matter of:

Application for Certification for the
CPV SENTINEL ENERGY PROJECT

Docket No. 07-AFC-03

ISSUES IDENTIFICATION REPORT
BY INTERVENOR COMMUNITIES
FOR A BETTER ENVIRONMENT

Intervenor Communities for a Better Environment (“CBE”) respectfully submits this Issues Identification Report, as ordered in the Committee Order Granting Petition to Intervene dated March 24, 2010.¹ That order directed CBE to state “all matters regarding the Air Quality assessment and analysis of the CPV Sentinel Energy Project which are of concern, in dispute, or require further inquiry by the Intervenor.” CPV Sentinel is required under federal law to offset its emissions with emission reductions. For sulfur oxides (“SOx”) and Particulate Matter smaller than 10 microns (“PM10”), CPV Sentinel intends to rely on emission reduction credits from the South Coast Air Quality Management District (“AQMD”). In addition to the air quality-related issues raised by Intervenor California Communities Against Toxics, CBE has specific concerns about the following issues related to the SOx and PM10 emission reduction credits on which Sentinel intends to rely:

1. AQMD currently has no rule that would allow it to sell or transfer emission reduction credits to CPV Sentinel, or any other power plant. Adoption of any such rule would require submission to, and approval by, the U.S. Environmental Protection Agency. AQMD has scheduled a hearing for April 30, two days after Intervenor’s testimony in this matter is due, at which it proposes to adopt a document for submission to EPA. Even

¹ Although the Order was dated March 24 and served electronically March 25, 2010, it was not actually received by counsel for CBE until April 8, 2010. This report is filed as expeditiously as possible, and within four days of receipt, as contemplated by the original order. In light of the fact that the issues identified are all clearly within the scope of the proceeding, the slight delay in filing should have no impact on the schedule.

if the proposed rule were adequate from a substantive law perspective, after submission, a rule does not become valid for federal purposes until it is approved by EPA.

2. AQMD's March 2, 2010 Addendum to Determination of Compliance purports to rely on, and comply with Assembly Bill (AB) 1318 to meet the federal offset requirements. AB 1318 is subject to litigation brought by Intervenor Communities for a Better Environment, Intervenor California Coalition Against Toxics, as well as others, in the public interest. If the public interest petitioners prevail, AB 1318 and/or actions taken to implement it will be invalidated. From a sheer judicial economy perspective, this permit should not move forward until the superior court has resolved the fundamental validity of AB 1318.
3. Given that AQMD's March 2, 2010 Addendum to Determination of Compliance relies on AB 1318, compliance with AB 1318's requirements is a central issue in an Air Quality determination. AB 1318 imposes several requirements, including:
 - a. "The District shall make any necessary submission to the United States Environmental Protection Agency with regard to the crediting and use of emission reductions and shutdowns from minor sources;"
 - b. AQMD shall report to the CEC "the emission credits to be credited and transferred" to CPV Sentinel;
 - c. CPV Sentinel must have "a purchase agreement executed on or before December 31, 2008 to provide electricity to a public utility";
 - d. CPV Sentinel must pay "mitigation fees set forth in the south coast district's Rule 1309.1, as adopted on August 3, 2007;"
 - e. For any fees collected, AQMD "shall ensure that at least 30 percent of the fees are used for emission reduction in areas with close proximity" to the facility and "at least 30 percent are used for emission reductions in areas designated as 'Environmental Justice Areas' in Rule 1309.1"; and
 - f. The CEC "shall determine whether the emission credits to be credited and transferred satisfy all applicable legal requirements" including those found in the federal Clean Air Act.

Conclusion

Based on a review of the data filed in this matter to date, documentation is still lacking from the project application regarding Air Quality issues, Intervenor Communities for a Better Environment respectfully requests the ability to raise issues that may not be apparent now but become clearer as the proceeding move forward.

Dated April 13, 2010

Respectively submitted,

[Original signed]
Shana Lazerow
Staff Attorney
Communities for a Better Environment

DECLARATION OF SERVICE

I, Shana Lazerow declare that on April 13, 2010, I served and filed copies of the document entitled

ISSUES IDENTIFICATION REPORT BY INTERVENOR COMMUNITIES FOR A BETTER ENVIRONMENT

The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[<http://www.energy.ca.gov/sitingcases/sentinel/index.html>]

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

For service to all other parties:

XX sent electronically to all email addresses on the Proof of Service list;

XX by personal delivery or by depositing in the United States mail at Oakland, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

XX sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

_____ depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-3

1516 Ninth Street, MS-4

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docket@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 13, 2010 at Oakland, California.

_____[Original signed]_____

Shana Lazerow



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION FOR THE
CPV SENTINEL ENERGY PROJECT
BY THE CPV SENTINEL, L.L.C**

DOCKET No. 07-AFC-3

**PROOF OF SERVICE
(Revised 3/24/2010)**

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