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California Energy Commission <b>DOCKETED</b> <b>11-AFC-1</b>
TN # 66023 JUN 28 2012

STATE OF CALIFORNIA  
State Energy Resources  
Conservation and Development Commission

In the Matter of: ) Docket No. 11-AFC-01  
)  
) PETITION TO INTERVENE  
)  
Pio Pico Energy Center Project )  
)  
\_\_\_\_\_ )

1. Petitioner, Corrections Corporation of America (“CCA”), petitions to intervene in the above-captioned proceeding.

2. CCA owns property immediately to the northeast of the site of the proposed Pio Pico Energy Center Power Project (Docket No. 11-AFC-01) in the East Otay Mesa portion of San Diego County. CCA has received a permit from the County for the development of a 2,132-bed correctional facility on its property.

3. In case this Petition is deemed submitted after the deadline, CCA can show good cause as described in the Declaration of G. Scott Williams and as follows:

- a. CCA’s counsel, Scott Williams, Esq., reviewed the Application for Certification, Preliminary Staff Assessment and Final Staff Assessment for the Pio Pico project on CCA's behalf as they became available. After reviewing the Preliminary Staff Assessment, Mr. Williams contacted the CEC Project Manager (Eric Solorio) and counsel for the Applicant (John

McKinsey) to discuss two issues of concern relating to hazardous materials and noise impacts to CCA's facility. After several discussions, Mr. Williams was assured that CCA's concerns would be addressed in the Final Staff Assessment and, in fact, Conditions of Certification Noise-4 and Hazmat-4 were included in the Final Assessment to address CCA's issues.

- b. With the June 25 deadline for intervention approaching, Mr. Williams contacted Mr. Solorio and attempted to contact Mr. McKinsey to determine whether there was any reason for CCA to incur the expense of intervention given the fact that the proposed Conditions of Certification were satisfactory to CCA. Mr. Williams was not able to speak with Applicant's counsel, but Mr. Solorio stated to Mr. Williams that the Applicant had assured him that it would not object to the proposed Conditions. Mr. Williams also spoke with Jennifer Jennings, the public adviser for the project, who stated that she did not think formal intervention was necessary given the fact that there was no suggestion of opposition to the proposed Conditions. On that basis, CCA elected not to submit a petition to intervene in the proceeding.
- c. Mr. Williams was informed on July 27<sup>th</sup> by Mr. Solorio that the Applicant has objected to Condition Noise-4 (the relevant noise mitigation measure) in its June 26<sup>th</sup> filing of its Opening Testimony, Witness List, and Identification of Contested Issues. At that time, Mr. Williams had not yet been able to obtain a copy of the Applicant's filing, but Mr. Williams understands that the Applicant is objecting that it is not subject to the relevant County noise standards, even though the County applied those standards to the CCA facility.
- d. In light of these developments, it now appears necessary for CCA to formally intervene in the proceeding. CCA had good cause to rely upon

the statements made to CCA's counsel. Accordingly, CCA respectfully requests leave to intervene in the proceeding.

4. Petitioner will be represented by counsel in this proceeding. Contact information for Petitioner's counsel is:

G. Scott Williams, Esq.  
Seltzer Caplan McMahon Vitek  
750 B Street, Suite 2100  
San Diego, CA 92101  
Telephone: (619) 685-3151  
Facsimile: (619) 702-6842  
E-Mail: [swilliams@scmv.com](mailto:swilliams@scmv.com)

5. Petitioner is not a member of a group or organization already a party to this proceeding.

6. Petitioner has an interest in the proceeding in that petitioner owns property that is adjacent to the proposed project.

7. Petitioner seeks to intervene in this proceeding pursuant to 20 Code of California Regulations section 1207 to address noise generated by the project, hazardous materials, and to ensure that the project complies with all applicable law and that the environment and human health are protected.


8. Petitioner requests that Petitioner's counsel be added to the service list.

9. Petitioner agrees that if a document is served upon Petitioner's counsel via email, an additional paper copy by mail is not necessary.

10. For the foregoing reasons, CCA respectfully requests that the Commission grant its petition to intervene in this proceeding, and CCA to participate as a party.

Dated: June 28, 2012

SELTZER CAPLAN MCMAHON VITEK  
A Law Corporation

By:   
G. Scott Williams  
Erik L. Schraner  
Attorneys for Corrections Corporation of America

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STATE OF CALIFORNIA  
State Energy Resources  
Conservation and Development Commission

In the Matter of: ) Docket No. 11-AFC-01  
)  
) DECLARATION OF G. SCOTT WILLIAMS  
) IN SUPPORT OF (1) PETITION FOR  
Pio Pico Energy Center Project ) EXTENSION OF DEADLINE FOR  
) INTERVENTION; AND (2) PETITION TO  
\_\_\_\_\_ ) INTERVENE

I, G. Scott Williams, declare:

1. I am an attorney licensed to practice law in the State of California, and a shareholder of the law firm Seltzer Caplan McMahon Vitek, A Law Corporation, attorneys of record for Corrections Corporation of America ("CCA"). I have personal knowledge of the matters stated below, and if called upon could competently testify thereto.

2. I am submitting this Declaration in support of CCA's Petition for an extension of the deadline to file a petition for intervention in the Pio Pico proceeding and in support of CCA's Petition to Intervene.

3. CCA owns property immediately to the northeast of the site of the proposed Pio Pico Energy Center Power Project (Docket No. 11-AFC-01) in the East

Otay Mesa portion of San Diego County. CCA has received a permit from the County for the development of a 2,132-bed correctional facility on its property.

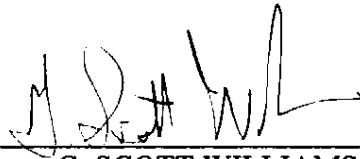
4. I have reviewed the Application for Certification, Preliminary Staff Assessment and Final Staff Assessment for the Pio Pico project on CCA's behalf as they became available. After reviewing the Preliminary Staff Assessment, I contacted the CEC Project Manager (Eric Solorio) and counsel for the Applicant (John McKinsey) to discuss two issues of concern relating to hazardous materials and noise impacts to CCA's facility. After several discussions, I was assured that my concerns would be addressed in the Final Staff Assessment and, in fact, Conditions of Certification Noise-4 and Hazmat-4 were included in the Final Assessment to address CCA's issues.

5. With the June 25 deadline for intervention approaching, I contacted Mr. Solorio and attempted to contact Mr. McKinsey to determine whether there was any reason for CCA to incur the expense of intervention given the fact that the proposed Conditions of Certification were satisfactory to CCA. I was not able to speak with Applicant's counsel, but Mr. Solorio stated to me that the Applicant had assured him that it would not object to the proposed Conditions. I also spoke with Jennifer Jennings, the public adviser for the project, who stated that she did not think formal intervention was necessary given the fact that there was no suggestion of opposition to the proposed Conditions. On that basis, CCA elected not to submit a petition to intervene in the proceeding.

6. I have just been informed this morning by Mr. Solorio that the Applicant has objected to Condition Noise-4 (the relevant noise mitigation measure) in its June 26 filing of its Opening Testimony, Witness List, and Identification of Contested Issues. I have not yet been able to obtain a copy of the Applicant's filing, but I understand that the Applicant is objecting that it is not subject to the relevant County noise standards, even though the County applied those standards to the CCA facility.

7. In light of these developments, it now appears necessary for CCA to formally intervene in the proceeding. Accordingly, CCA respectfully requests an extension until July 6 in the deadline to submit a petition to intervene in the proceeding and respectfully requests permission to intervene. Additionally CCA requests leave to intervene in the proceeding.

I declare under penalty of perjury under the laws of California that the foregoing statements are true and correct and that this declaration was executed this 27<sup>th</sup> day of June, 2012, at San Diego, California.

A handwritten signature in black ink, appearing to read "G. Scott Williams", is written above a horizontal line.

G. SCOTT WILLIAMS