

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	

August 18, 2009

<b>DOCKET</b>
<b>08-AFC-9</b>
DATE <u>8/18/2009</u>
RECD. <u>8/18/2009</u>

File No. 039610-0003

VIA FEDEX

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 08-AFC-9  
1516 Ninth Street, MS-4  
Sacramento, California 95814-5512


Re: City of Palmdale Hybrid Power Plant Project: Docket No. 08-AFC-9

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 to the United States Environmental Protection Agency ("EPA") in response to EPA's Comments on the Revised PDOC for the above-referenced Project.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the attached proof of service list.

Very truly yours,



Paul E. Kihm  
Senior Paralegal

Enclosure

cc: 08-AFC-9 Proof of Service List (w/encl., via e-mail and U.S. Mail)  
Michael J. Carroll, Esq. (w/encl.)

# LATHAM & WATKINS LLP

August 18, 2009

Mr. Gerardo C. Rios  
Chief, Permits Office  
United States Environmental Protection Agency  
Region IX  
75 Hawthorne Street  
San Francisco, California 94105

## 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	

File No. 039610-0003

Re: EPA Comments on the Revised PDOC for the Palmdale Hybrid Power Project

Dear Mr. Rios:

Thank you for providing comments on the Revised Preliminary Determination of Compliance (PDOC) for the Palmdale Hybrid Power Project (PHPP) (08-AFC-9). For your consideration, please find attached a portion of our July 22, 2009 submittal to the California Energy Commission (CEC) Staff related to air quality data requests. These responses, along with our earlier air quality submittals to the CEC, should help address the comments raised in your letter. If you need copies of any of our earlier submittals, please let me know.

The following brief responses should also help address several of the comments raised in your letter:

- **Examples of Past SJVAPCD Transfers Were Submitted For Illustrative Purposes Only** – There appears to be a misunderstanding about the examples provided by the AVAQMD to the CEC on July 6, 2009 regarding past ERC transfers between the SJVAPCD and the AVAQMD.<sup>1</sup> The AVAQMD provided copies of these past transfers for illustrative purposes only to demonstrate precedent that projects located within the AVAQMD's jurisdiction have successfully utilized transferred SJVAPCD-based ERCs to offset project emissions. These examples were not intended in any way to be considered part of PHPP's offset package.
- **SJVAPCD-Based ERCs Would Satisfy Clean Air Act Section 173(c) Requirements** – The San Joaquin Valley was designated Nonattainment/Subpart

---

<sup>1</sup> The examples were provided in a letter from Alan DeSalvio (AVAQMD) to Felicia Miller (CEC), providing comments on the CEC Staff Status Report No. 4. The letter and supporting documentation are available at the CEC website: <http://www.energy.ca.gov/sitingcases/palmdale/documents/index.html>.

2 - Extreme and the Antelope Valley was designated Nonattainment/Subpart 2 – Severe-17 under the 1997 eight-hour ozone standard (San Joaquin Valley was designated Extreme and Antelope Valley Severe under the now revoked one hour standard). Moreover, the California Air Resources Board, in its March 2001 Assessment of the Impacts of Transported Pollutants on Ozone Concentrations in California, determined that ozone levels in the MDAB were overwhelmingly impacted by transport from the SJVAB. As such, the SJVAPCD-based ERCs satisfy Clean Air Act Section 173(c) criteria for inter-basin transfers.

- **No RACT Upon Use Surplus Adjustment Required For ERCs Transferred From SJVAPCD** – SJVAPCD-based ERCs (NO<sub>x</sub> and VOC) that will be acquired by the Applicant will have been banked pursuant to SJVAPCD rules, which require the ERCs to be real, permanent, quantifiable, surplus and enforceable. With respect to the surplus requirement, the SJVAPCD only requires a Reasonably Available Control Technology (RACT) adjustment at the time the ERCs are banked and not upon use. (See SJVAPCD Rule 2201 § 3.2.2.) Because the ERCs originate in the SJVAPCD, the surplus adjustment requirements of the SJVAPCD govern the ERCs. Accordingly, an inter-district transfer of SJVAPCD-based ERCs does not require a “RACT upon use” surplus adjustment.

The SJVAPCD and AVAQMD have followed this approach when approving past inter-district transfers. Documentation provided by the AVAQMD to the CEC on July 6, 2009 (see discussion in first bullet, above) provides evidence of two previously-approved transfers of SJVAPCD-based ERCs for projects within the AVAQMD. As shown, no “RACT upon use” reduction was required for either transfer of ERCs. In accordance with AVAQMD rules, these past transfers were completed in consultation with CARB and the EPA. Applying this approach to the PHPP, no “RACT upon use” reduction would be required for PHPP to utilize SJVAPCD-based ERCs.

- **AVAQMD Consultation With CARB and EPA Is Satisfied Through Review and Comment Process for the PDOC and FDOC** – Regarding the AVAQMD’s consultation obligations with CARB and EPA, consultation obligations pursuant to AVAQMD Rule 1305 are considered satisfied by the AVAQMD through the agency review and comment process for the PDOC and FDOC. No formal approval by CARB or EPA is required for any of the ERCs proposed for the PHPP.
- **Applicant Has Identified the PHPP Offset Package to the Maximum Extent Feasible Given Existing Market Conditions** – While Applicant acknowledges that specific ERCs have not been fully identified, Applicant’s offset package for PHPP has the maximum specificity feasible at this point given market conditions. As we indicated in a submittal to the CEC on June 30, 2009 (Responses to CEC Staff Report No. 4), given rising emission offset prices throughout most of California, including in the SJVAPCD, holders of ERCs are no longer willing to

LATHAM & WATKINS<sup>LLP</sup>

enter into relatively long-term option contracts. Furthermore, the current costs of emission offsets makes it economically impossible for project applicants to secure them outright before they are confident of receiving project approval and obtaining project financing. Nevertheless, the fact that the Applicant does not have an ownership interest in specific SJVAPCD-based ERCs does not impede the regulatory agencies from analyzing the effectiveness of such offsets in mitigating project impacts and complying with applicable requirements.

As indicated in our July 22, 2009 submittal to the CEC (enclosed), Applicant has retained the services of an emission offset broker, Evolution Markets Inc., to identify NOx and VOC certified and banked ERCs that would be available for sale and transfer to the AVAQMD for use as emission offsets for the PHPP. Until such time as an agreement has been executed for the acquisition of the offsets, Evolution Markets is not at liberty to disclose the identity of potential sellers of ERCs or the ERCs. Thus, given current market conditions, the PHPP offset package provides the maximum specificity feasible at this time. More information will be provided to the EPA, CARB, CEC and AVAQMD as soon as it is available.

We hope this information is helpful to the EPA in its review of the PHPP DOC. If you have any questions, please do not hesitate to contact me.

Very truly yours,



Michael J. Carroll  
of LATHAM & WATKINS LLP

Enclosure: Air Quality Supplemental Responses from the July 9, 2009 CEC Committee Conference, July 22, 2009.

cc: Felicia Miller, California Energy Commission  
Christian Anderson, Antelope Valley Air Quality Management District  
Laurie Lile, City of Palmdale  
Tom Barnett, Inland Energy  
Sara Head, AECOM

<b>PALMDALE HYBRID POWER PROJECT (08-AFC-9)</b> <b>Supplemental Responses from July 9, 2009 Committee Conference</b>	
<b>Technical Area: Air Quality</b>	<b>Response Date: July 22, 2009</b>

Following are responses to data requests made by the Staff at the Committee Conference pertaining to emission reduction credit (ERC) plans for the PHPP.

**Data Request CC-AQ1:**

As required by Antelope Valley Air Quality Management District (AVAQMD) rules, provide assurances from the California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (EPA) that the proposal to offset particulate emissions with road paving credits, and the methodology for generating such credits, are acceptable.

**Response:**

AVAQMD rules do not require CARB or EPA approval of Applicant's proposal to utilize road paving ERCs to offset PHPP's PM10 emissions. Use of such offsets is authorized by AVAQMD Rule 1305(B)(3)(d), which authorizes use of area and indirect source ERCs as offsets, provided that certain requirements are satisfied. The rule does not require the approval of such use by CARB or EPA under the circumstances applicable to PHPP.

Rule 1305(B)(3)(d)(iv) only requires EPA approval for Federal Major Facilities in a federal non-attainment area. Since the Antelope Valley Air Basin is designated attainment for the federal PM10 standards, this provision does not apply to PHPP's proposed use of road paving ERCs.

Rule 1305(B)(3)(d)(iii) does require CARB "concurrence," as opposed to "approval," before any offsets can be issued. CARB has been provided the opportunity to comment on the AVAQMD's Preliminary Determination of Compliance (PDOC) and Revised PDOC, both of which included the proposal to offset PM10 emissions through road paving. CARB did not comment on the PDOC, and CARB is not expected to comment on the Revised PDOC. The absence of any objection from CARB is deemed by the AVAQMD as concurrence with the proposal. No explicit approval by CARB is required by Rule 1305(B)(3)(d)(iii).

Applicant notes that use of actual emission reductions (AERs) from area and indirect sources as offsets, which is authorized by AVAQMD Rule 1305(B)(3)(c), does require CARB and EPA approval of the formula used to calculate the AERs. This may be the AVAQMD rule to which Staff is referring. AERs may be, but are not necessarily, banked pursuant to AVAQMD Rule 1309. Typically, they are contemporaneous reductions at the same facility used to offset new emission sources at the facility. In the case of PHPP, the Applicant will bank ERCs pursuant to Rule 1309, and therefore, 1305(B)(3)(d) is the applicable provision.

As noted in the revised PDOC, AVAQMD intends to require the use of the same formulas for the calculation of the ERCs from road paving that EPA has approved elsewhere, e.g., MDAQMD Rule 1406.

**PALMDALE HYBRID POWER PROJECT (08-AFC-9)**  
**Supplemental Responses from July 9, 2009 Committee Conference**

**Technical Area: Air Quality**

**Response Date: July 22, 2009**

**Data Request CC-AQ2:**

Provide evidence that the Applicant has engaged in discussions with holders of specific emission reduction credits (ERCs) in the San Joaquin Valley Air Pollution Control District (SJVAPCD) ERC bank that would be available for purchase.

**Response:**

Applicant has retained the services of an emission offset broker, Evolution Markets Inc., to identify NO<sub>x</sub> and VOC certified and banked emission reduction credits (ERCs) in the San Joaquin Valley Air Pollution Control District (SJVAPCD) that would be available for sale and transfer to the AVAQMD for use as emission offsets for the PHPP. As indicated in the attached e-mail message from Samantha Unger of Evolution Markets, they have identified a seller who holds sufficient NO<sub>x</sub> and VOC ERCs to meet the needs of the PHPP, and who is willing to enter into a transaction to sell the ERCs to Applicant. As further explained by Ms. Unger, until such time as an agreement has been executed for the acquisition of the offsets, Evolution Markets is not at liberty to disclose the identity of the seller or the ERCs. However, as discussed at the Committee Conference, this should not impede the ability of the Staff to evaluate the effectiveness of the proposed ERCs for meeting applicable laws, ordinances, regulations and standards or the requirements of the California Environmental Quality Act. Applicable AVAQMD rules do not make any distinctions between different banked and certified ERCs that might be transferred from the SJVAPCD to offset PHPP emissions. For example, there are no "distance ratios" or other requirements which might apply differently depending on the specific type or location of the ERCs proposed for transfer.

---

**Data Request CC-AQ3:**

Demonstrate that the road segments proposed for paving have sufficient traffic to provide the necessary PM<sub>10</sub> ERCs.

**Response:**

Applicant provided a list of 11 road segments out of 38 potential dirt roads in response to Data Request 103 in Applicant's May 1, 2009 response submittal. The City of Palmdale has collected traffic information on these roads using methodologies acceptable to AVAQMD. Potential emission reductions of both PM<sub>10</sub> and PM<sub>2.5</sub> were calculated based on these traffic counts and using the default silt content and moisture content factors from MDAQMD Rule 1406. The results of the calculations are shown in the attached Table A3. Based on the PHPP total annual potential emissions provided in Table 5.2-27R in the May 1, 2009 Response to Data Request 114, PHPP will require 136.4 tons per year (tpy) of PM<sub>10</sub> offsets. Table A3 indicates that over 414 tpy of credits could be provided from these road segments, and that paving as few as the approximately four miles of roads highlighted would provide more than enough (147.2 tpy) PM<sub>10</sub> credit for PHPP.

**PALMDALE HYBRID POWER PROJECT (08-AFC-9)**  
**Supplemental Responses from July 9, 2009 Committee Conference**

Technical Area: Air Quality

Response Date: July 22, 2009

**Table A3. Potential Emission Reductions from Paving Unpaved Roads**

Street	From	To	Length (mi)	Week Day Volume (trips/day)	Weekend Volume (trips/day)	Annual VMT (mi/yr)	PM10 Reduction (tpy)	PM2.5 Reduction (tpy)	
Avenue B	90th Street West	30th Street West	6	15	14	32,136	18.8	1.88	
Avenue S-2	96th Street East	106th Street East	1	102	85	35,360	20.7	2.06	
110th Street East	Avenue L	Columbia Way / Avenue M	1	140	57.4	42,370	24.8	2.47	
40th Street West	Avenue N	Avenue N-8	0.5	280	257	49,764	29.1	2.90	
Avenue Q	90th Street East	110th Street East	2	74	66	52,208	30.5	3.05	
Avenue S-6	96th Street East	106th Street East	1	149	155	54,860	32.1	3.20	
Barrel Springs Road	Sierra Highway	25th Street East	1.5	125	86	62,166	36.3	3.63	
Avenue T-10	87th Street East	96th Street East	1	171	171	62,244	36.4	3.63	
Avenue N-8	Bolz Ranch Road	30th Street West	1.5	157	151	84,786	49.6	4.95	
Avenue G	90th Street East	120th Street East	3	115	4	90,948	53.2	5.31	
Carson Mesa Road	El Sastre	Vincent View Road	4	106	76	141,856	82.9	8.28	
<b>Totals</b>							<b>708,698</b>	<b>414</b>	<b>41.4</b>

Annual VMT [mi/yr] = segment length [mi] x (weekday volume [trips/day] x 5 [weekdays/week] + weekend volume [trips/day] x 2 [weekend days/week] x 52 [weeks/yr]) + weekend volume [trips/day] x 2 [weekend days/week] x 52 [weeks/yr]

Emission reduction [tpy] = emission factor reduction [lb/mi] x annual VMT [mi/yr] / 2000 [lb/ton]

**PALMDALE HYBRID POWER PROJECT (08-AFC-9)**  
**Supplemental Responses from July 9, 2009 Committee Conference**

Technical Area: Air Quality

Response Date: July 22, 2009

Factors used for the calculations shown in Table A3 are as follows:

**Unpaved Road Emission Factors**

Emission factor [lb/mi] =  $k$  (silt content [%] / 12)<sup>a</sup> (vehicle speed [mph] / 30)<sup>d</sup> / (moisture content [%] / 0.5)<sup>c</sup>

k =	1.8	PM10
	0.18	PM2.5
a =	1	PM10 and PM2.5
c =	0.2	PM10 and PM2.5
d =	0.5	PM10 and PM2.5

silt content =	11	%
vehicle speed =	20	Mph
moisture content =	1	%

Emission factor =	1.17	lb/mi, PM10
	0.117	lb/mi, PM2.5

**Paved Road Emission Factors**

Emission factor [lb/mi] =  $k$  (silt loading [g/m<sup>2</sup>] / 2)<sup>0.65</sup> (vehicle weight [tons] / 3)<sup>1.5</sup>

k =	0.016	PM10
	0.0024	PM2.5

silt loading =	0.23	g/m <sup>2</sup>
vehicle weight =	3.0	Tons

Emission factor =	0.00392	lb/mi, PM10
	0.000588	lb/mi, PM2.5

**Emission Factor Reduction from Paving**

Emission factor reduction [lb/mi] = Unpaved emission factor [lb/mi] - Paved emission factor [lb/mi]

EF reduction =	1.17	lb/mi, PM10
	0.117	lb/mi, PM2.5



**Attachment: Email from Samantha Unger, Evolution Markets**

**From:** Samantha Unger [mailto:SUnger@evomarkets.com]  
**Sent:** Monday, July 20, 2009 10:19 AM  
**To:** Carroll, Michael  
**Subject:** Evolution Markets - San Joaquin ERCs

Mike,

As you know, we have been working with your client, Inland Energy, to identify certified NOx and VOC emission reduction credits in the San Joaquin Valley Air Pollution Control District that are available for sale to potentially be used as offsets for the Palmdale Hybrid Power Plant (PHPP) pending the approval of both air districts.

As per your request, I am able to confirm that we do have a client with over 150 tons of NOx and 50 tons of VOC ERCs available for sale currently in the San Joaquin Valley. These credits are available for sale on an outright or contingent forward basis. I cannot disclose the identity of our client or the certificate numbers of the ERCs without an agreement in place. If the applicant was to purchase the ERCs outright using the standard confirmation letter, the certificate numbers would be available immediately. If the applicant were to purchase these credits on a contingent forward basis, the certificate numbers would be available upon the execution of a contract. I hope that this information is helpful.

Please let me know if you have any questions. 914.323.0267

Sincerely,

Samantha Unger

Evolution Markets Inc.

[www.evomarkets.com](http://www.evomarkets.com)



**EVOLUTION**  
MARKETS

**Samantha Unger** - Director, California Emissions Markets  
**Evolution Markets Inc.**

10 Bank Street :: White Plains, NY 10606  
P: NY: 914.323.0267, CA: 415.963.9150  
F: +1 914.328.3701 :: M: +1 646.526.9536  
[sunger@evomarkets.com](mailto:sunger@evomarkets.com)

**The Intersection of Environment, Energy and Finance™**

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

In the Matter of: ) Docket No. 08-AFC-9  
)  
Application for Certification, ) **PROOF OF SERVICE**  
for the CITY OF PALMDALE HYBRID )  
POWER PLANT PROJECT ) (Revised July 30, 2009)  
)  
\_\_\_\_\_ )

**APPLICANT**

**Thomas M. Barnett**  
Executive Vice President  
Inland Energy, Inc.  
3501 Jamboree Road  
South Tower, Suite 606  
Newport Beach, CA 92660  
[tbarnett@inlandenergy.com](mailto:tbarnett@inlandenergy.com)

**Antonio D. Penna Jr.**  
Vice President  
Inland Energy  
4390 Civic Drive  
Victorville, CA 92392  
[tonypenna@inlandenergy.com](mailto:tonypenna@inlandenergy.com)

**Laurie Lile**  
Assistant City Manager  
City of Palmdale  
38300 North Sierra Highway, Suite A  
Palmdale, CA 93550  
[llile@cityofpalmdale.org](mailto:llile@cityofpalmdale.org)

**APPLICANT'S CONSULTANTS**

**Sara Head**  
Vice President  
ENSR Corporation  
1220 Avenida Acaso  
Camarillo, CA 93012  
[SHead@ensr.aecom.com](mailto:SHead@ensr.aecom.com)

PALMDALE HYBRID POWER PROJECT  
CEC Docket No. 08-AFC-09

INTERESTED AGENCIES

**Michael R. Plaziak**

Manager

Lahontan Regional Water Quality Control Board

14440 Civic Drive, Suite 200

Victorville, CA 92392-2306

[mplaziak@waterboards.ca.gov](mailto:mplaziak@waterboards.ca.gov)

**Rick Buckingham**

State Water Project

Power & Risk Office

3310 El Camino Avenue, LL-90

Sacramento, CA 95821

*E-mail preferred*

[rbucking@water.ca.gov](mailto:rbucking@water.ca.gov)

**Manuel Alvarez**

**Robert J. Tucker**

SoCal Edison

1201 K Street

Sacramento, CA 95814

[Manuel.Alvarez@sce.com](mailto:Manuel.Alvarez@sce.com)

[Robert.Tucker@sce.com](mailto:Robert.Tucker@sce.com)

**Jeffrey Doll**

Air Resources Engineer

Energy Section/Stationary Sources

California Air Resources Board

P.O. Box 2815

Sacramento, California 95812

*E-mail preferred*

[jdoll@arb.ca.gov](mailto:jdoll@arb.ca.gov)

**Christian Anderson**

Air Quality Engineer

Antelope Valley AQMD

43301 Division St, Suite 206

Lancaster, CA 93535

*E-mail preferred*

[canderson@avaqmd.ca.gov](mailto:canderson@avaqmd.ca.gov)

PALMDALE HYBRID POWER PROJECT  
CEC Docket No. 08-AFC-09

**Erinn Wilson**

California Department of Fish and Game  
4949 Viewridge Avenue  
San Diego, CA 92123  
[EWilson@dfg.ca.gov](mailto:EWilson@dfg.ca.gov)

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

ENERGY COMMISSION

**Jeffrey D. Byron**

Commissioner and Presiding Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

**Arthur H. Rosenfeld**

Commissioner and Associate Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[pflint@energy.state.ca.us](mailto:pflint@energy.state.ca.us)

**Paul Kramer**

Hearing Officer  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[pkramer@energy.state.ca.us](mailto:pkramer@energy.state.ca.us)

**Felicia Miller**

Project Manager  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[fmiller@energy.state.ca.us](mailto:fmiller@energy.state.ca.us)

PALMDALE HYBRID POWER PROJECT  
CEC Docket No. 08-AFC-09

**Caryn Holmes**

Staff Counsel  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[CHolmes@energy.state.ca.us](mailto:CHolmes@energy.state.ca.us)

**Elena Miller**

Public Adviser  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
[Publicadviser@energy.state.ca.us](mailto:Publicadviser@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Paul Kihm, declare that on August 18, 2009, I served and filed copies of the attached:

Letter to the United States Environmental Protect Agency ("EPA") in response to EPA's Comments on the Revised PDOC

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. 08-AFC-09

1516 Ninth Street, MS-4

Sacramento, California 95814-5512

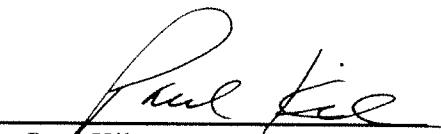
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**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 August 18, 2009, at Costa Mesa, California.

  
Paul Kihm