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February 27, 2009

File No. 039610-0003

VIA FEDEX

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

<b>DOCKET</b>	
<b>08-AFC-9</b>	
DATE	FEB 27 2009
RECD.	MAR 02 2009

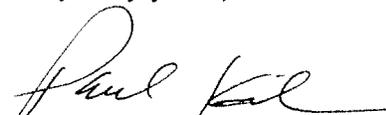
Re: City of Palmdale Hybrid Power Plant Project: Docket No. 08-AFC-9

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Third Extension of 30-Day Deadline Pursuant to Title 20, California Code of Regulations, Section 1716(g).

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

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STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of: ) Docket No. 08-AFC-09  
)  
APPLICATION FOR CERTIFICATION, )  
FOR THE PALMDALE HYBRID POWER ) THIRD EXTENSION OF DEADLINE  
PROJECT BY THE CITY OF PALMDALE ) PURSUANT TO TITLE 20, CALIFORNIA  
) CODE OF REGULATIONS, SECTION  
) 1716(g)  
)

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The Applicant for the Palmdale Hybrid Power Plant (PHPP) (08-AFC-9) made a timely objection on December 30, 2008 to Data Requests 22, 23, 24, 25, 86 and 87 from the Energy Commission Staff's Data Request Set 1 (#1-88). Staff and the Applicant are engaged in discussions regarding the scope of the referenced Data Requests in an effort to resolve Applicant's objections. On January 27, 2009, the Applicant agreed to extend the deadline for filing a motion to compel pursuant to California Code of Regulations Section 1716(g) until February 6, 2009. On February 5, 2009, Applicant agreed to a second extension until February 27, 2009. In order to provide additional time to resolve Applicant's objections to Data Requests 22, 23, 24 and 25, Applicant hereby agrees to a third extension until March 13, 2009.

To resolve Applicant's objections to Data Requests 86 and 87, Applicant hereby proposes the following conditions related to the construction of the project transmission line:

1. Applicant agrees that Conditions of Certification substantially similar to (but no more stringent than) the following shall be required before the PHPP is approved:

Proposed Condition of Certification 1:

***Evaluation of Potentially Contaminated Sites Where Transmission Line Construction Will Occur.*** Applicant shall implement the following steps at locations where excavation or significant ground disturbance will occur for the construction of

the Project transmission line. All steps shall be completed at least 60 days prior to the project transmission line construction to prevent mobilization of contaminants and exposure of workers and the public:

- **Step 1.** Investigate the tower locations and associated laydown and staging areas for construction of the Transmission Line to determine whether these locations have a record of hazardous material contamination which would affect construction activities. This investigation should be performed as a Phase I - Environmental Site Assessment (ESA). If contamination is identified that could potentially affect the health and safety of workers or the public during construction of the Proposed Project, proceed to Step 2.
- **Step 2.** Perform a Phase II ESA to characterize the locations and determine the nature and extent of the contamination present at the location before construction activities proceed within the Project ROW near the suspect site. If it is determined there are conditions that may pose a risk to the health and safety of workers or the public, or could mobilize contamination, then proceed to Step 3.
- **Step 3.** Prepare a Health Risk Assessment to determine whether risks may be present and a Remedial Action Plan to identify what remedial measures would be required to facilitate linear construction if there were conditions that pose a risk. The applicant will mitigate the health and safety risk according to applicable regulations or requirements. This would include preparation and implementation of site-specific Health and Safety Plans, Work Plans, and/or Remediation Plans.

Proposed Condition of Certification 2:

***Test for Residual Pesticides/Herbicides on Currently or Historically Farmed Land in Agricultural Areas Where Transmission Line Construction Will Occur.***

In areas where the land has been or is currently being farmed, and where excavation or significant ground disturbance will occur for the construction of the project transmission line, soil samples shall be collected and tested for herbicides, pesticides, and fumigants to determine the presence and extent of any material levels of contamination. The sampling and testing plan shall be prepared in consultation with the appropriate Los Angeles County agency, conducted by an appropriate California licensed professional, and sent to a California Certified laboratory for testing. Sampling and analysis shall be consistent with the DTSC's 'Interim Guidance for Sampling Agricultural Fields for School Sites (Third Revision)'. A report documenting the areas proposed for sampling, and the process used for sampling and testing shall be submitted to the Energy Commission for review and approval at least 90 days before transmission line construction occurs in the affected areas. Results of the laboratory testing and recommended resolutions for handling and excavation of material found to exceed regulatory requirements shall be submitted to the Energy Commission 60 days prior to transmission line construction occurs in the affected areas.

Excavated materials containing elevated levels of pesticide or herbicide will require special handling and disposal according to procedures established by the regulatory agencies. Effective dust suppression procedures will be used in construction areas to reduce airborne emissions of these contaminants and reduce the risk of exposure to workers and the public. Regulatory agencies for the State of California and Los Angeles County shall be contacted by Applicant or its contractor to plan handling, treatment, and/or disposal options.

2. Applicant shall prepare an environmental database search as part of the discovery process for the project transmission tower locations and associated laydown and staging areas for construction of the Transmission Line. The results of this environmental database search shall be submitted to the Energy Commission Staff within 30 days of this proposal being accepted.

DATED: February 27, 2009

Respectfully submitted,

/S/ MARC T. CAMPOPIANO

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Marc T. Campopiano  
LATHAM & WATKINS LLP  
Counsel to Applicant

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

In the Matter of:	)	Docket No. 08-AFC-9
	)	
Application for Certification,	)	<b>PROOF OF SERVICE</b>
for the CITY OF PALMDALE HYBRID	)	
POWER PLANT PROJECT	)	(Revised February 27, 2009)
	)	
_____	)	

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

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

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**DECLARATION OF SERVICE**

I, Paul Kihm, declare that on February 27, 2009, I served and filed copies of the attached:

**THIRD EXTENSION OF DEADLINE PURSUANT TO TITLE 20, CALIFORNIA  
CODE OF REGULATIONS, SECTION 1716(g)**

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**  
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1516 Ninth Street, MS-4  
Sacramento, California 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

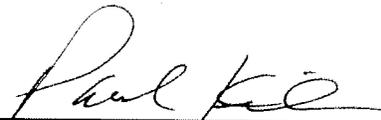
PALMDALE HYBRID POWER PROJECT  
CEC Docket No. 08-AFC-09

**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 February 27, 2009, at Costa Mesa, California.

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