

Antelope Valley Air Quality Management District
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Eldon Heaston, Executive Director

June 29, 2010

Matthew Layton
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

DOCKET	
08-AFC-9	
DATE	JUN 29 2010
RECD.	JUL 07 2010

Re: June 16, 2010 Letter Regarding Palmdale Hybrid Power Project FDOC (08-AFC-9)

Dear Mr. Layton:

The Antelope Valley Air Quality Management District (District) has reviewed your June 16, 2010 letter on the Final Determination of Compliance (FDOC) as issued on May 13, 2010 for the Palmdale Hybrid Power Project. The FDOC is not a “draft” and the District disagrees that the FDOC does not meet District or the USEPA requirements. The District has prepared the following to address the concerns expressed in your letter.

San Joaquin Valley Emission Reduction Credits

The District disagrees that the FDOC does not contain any information as to whether the San Joaquin Valley Air Pollution Control District (SJVAPCD) ERCs would effectively mitigate the Palmdale Hybrid Power Project emissions. The applicant has identified sufficient ozone precursor emission reductions to offset the proposed project, as required by Rule 1302(C)(5)(b). The applicant has provided proof of a contractual arrangement covering sufficient emission reductions in good standing in the SJVAPCD emission reduction credit registry. The District recognizes that the issuance of emission reduction credits by SJVAPCD confirms those credits as real, quantifiable, permanent, surplus and enforceable, and hence meets USEPA criteria. Emission reduction credits have been transferred from the SJVAPCD into the Antelope Valley and Mojave Desert air districts in the recent past, in accordance with state and local laws and regulations (including ERC regulations, NSR regulations and California Health & Safety Code (H&S Code) §40709.6). The District has no reason to believe the proposed transfer cannot occur, and has no regulatory authority to force purchase and transfer of the SJVAPCD credits at this stage of the proposed project. The applicant has provided sufficient information that the ERCs are available, but the District has no objection to the California Energy Commission including a requirement that the credit transfer must be approved by the SJVAPCD and AVAQMD Boards, as required by state law, prior to the start of construction.

Compliance with California Health & Safety Code §40709.6

The primary statute governing the use of ERCs across air basin and air district boundaries is found in H&S Code §40709.6. As you are aware the San Joaquin Valley is classified non-attainment for the federal eight hour ozone standard and designated extreme while the desert

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portion of Los Angeles County within the Mojave Desert Air Basin is classified nonattainment and designated moderate (40 CFR 81.305). For state purposes both the San Joaquin Valley and the Mojave Desert Air Basin are classified nonattainment (17 Cal. Code Regs. §60201). As stated in your letter, the San Joaquin Valley is upwind and contributes overwhelmingly to air pollution within the Mojave Desert Air Basin (*Assessment of the Impacts of Transported Pollutants on Ozone Concentrations in California*, CARB March 2001). These facts indicate that the provisions of H&S Code 40709.6(a)(1) and (a)(2) can be, and indeed have been, met.

The fact that there are rules creating a credit bank and setting forth a process for determining the type and quantity of ERCs within the SJVAPCD indicates that the providing district has made the proper determination pursuant to H&S Code §40709.6(b). The net result of this particular subsection is the District must recognize and accept whatever the final determination regarding amount and type of ERCs made by the SJVAPCD as evidenced in the amount of ERCs approved for transfer by the SJVAPCD.

You have indicated concern that the FDOC does not fully determine the effectiveness of transferred ERCs in mitigating the emissions increases from the proposed project as required by H&S Code 40709.6(c)(1). Pursuant to District rules, this determination has been made “in the same manner and to the same extent as the district would do so for fully credited emissions reductions from sources located within its boundaries.” The District has properly determined the impact in compliance with the applicable provisions of District Rules 1302 and 1305 and such analysis is reflected in the FDOC. The District is statutorily precluded from performing a different impact analysis for this particular project based solely upon the fact that the proposed ERCs are not located within the District and the air basin, nor would any such additional analysis be warranted.

Your final concern regarding compliance with H&S Code §40709.6 revolves around the technical approval process for transferring credits found in subsection (d). The SJVAPCD Governing Board has delegated the authority to approve such transfers to its Air Pollution Control Officer as provided for by statute. The APCO of the SJVAPCD can approve the transfer by letter specifying the particular ERCs to be transferred, the amount, and making the specific findings. The District Governing Board would likewise need to approve the transfer by resolution at a meeting. Given the fact that these types of transfers have occurred in the recent past and that there have been no substantive changes to the impacts on air quality, public health and the regional economy since those transfers occurred, the District has no reason to believe that the transfer would not be possible.

San Joaquin Valley Origin Offset Ratio

The determination by CARB that emissions from the San Joaquin Valley have an overwhelming influence on ozone concentrations in the Mojave Desert Air Basin does not make distinctions between different portions of the San Joaquin Valley. The District has no distance ratio provision in any rule or regulation, and does not believe a distance ratio can be technically justified given the existing overwhelming transport from the origin air basin. Thus, the state agency specifically charged with analyzing the effects of transported pollutants, and equipped with the expertise to do so, has determined that inter-basin transfers from anywhere in the San Joaquin Valley into the Mojave Desert Air Basin are appropriate and authorized pursuant to state

law. Implicit in this determination is that such transfers would effectively mitigate emission increases in the downwind basin. The FDOC relies upon this analysis and determination made by CARB. This satisfies Rule 1305 and H&S §40709.6 for credit transfers from SJVAPCD into the District. It would be unnecessary and inappropriate for either the District or the CEC to repeat the analysis conducted by CARB, or to usurp its authority to establish transport couplings.

If the CEC staff believes that the analysis conducted by CARB and the District with respect to the location of the offsets is deficient in some specific way, the CEC staff has its own authority, with proper technical justification, to provide specific limitations regarding the locations within the SJVAPCD from which ERCs will be acceptable.

Pursuant to District Rule 1305(B)(5), approval of use of offsets from other districts and outside the air basin require only consultation with CARB and USEPA. The PDOC, revised PDOC and FDOC, including the proposal to utilize inter-basin offsets, have been provided to both CARB and USEPA, which meets the requirement for consultation. Only inter-pollutant trade ratios would require approval by USEPA, and inter-pollutant trading is not being proposed by the applicant.

PM₁₀ Offsets

The applicant has identified sufficient public unpaved roads that can be paved to generate PM₁₀ emission reductions to offset the proposed project's PM₁₀ emissions (including fugitive emissions from vehicles involved in maintenance of solar field equipment), using a District approved calculation methodology. The approved methodology includes verifying the existence and status of the unpaved roads, specifies ongoing road surface inspection procedures, and establishes eventual maintenance responsibility (and control) for the paved public road surface. The applicant has identified specific public (Palmdale and County of Los Angeles) road segments and traffic levels. A commitment to maintain the integrity of the paved road surface by the public entity with control over the paved road will be required as an element of each road paving ERC application, in accordance with District Rules 1305 and 1309.

The District is attainment for the federal PM₁₀ standard. Therefore, there is no regulatory requirement to adopt a PM₁₀ plan, road paving rule, or any other preparatory regulatory action prior to responding to an ERC application for emission reductions resulting from the paving of an existing unpaved road. For the same reason USEPA approval is not required for any District action involving PM₁₀ credits (1305(B)(3)(d)). Furthermore, the District is attainment for both the federal and state PM_{2.5} standards, and therefore the PHPP is not required to offset its PM_{2.5} emissions.

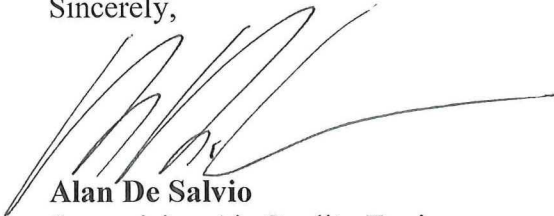
Offset Timing

The District would not presume to dictate to the Commission on licensing decisions. Nor would the District place requirements on a proposed project beyond District regulatory authority. In accordance with District rules and regulations, the District has: (1) required the applicant to provide proof of the existence of adequate offsets, in the form of transferable credits in good standing within the San Joaquin Valley ERC registry (which can be transferred in accordance with state and local law) and in the form of existing unpaved roads which can be paved to

generate PM₁₀ offsets; and (2) placed a requirement (proposed permit condition) on the proposed project to surrender the totality of offsets prior to the commencement of construction.

If you have any questions regarding this letter, please call me at (760) 245-1661, extension 6726.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan De Salvo', with a long horizontal flourish extending to the right.

Alan De Salvo
Supervising Air Quality Engineer

Cc: Steve Williams, Palmdale City Manager
Tony Penna, Inland Energy
Sara Head, AECOM
Karen K. Nowak, District Counsel
Bret Banks, AVAQMD
Chris Anderson

AJD/KKN/CA

CEC FDOC Response.doc



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION
For the *PALMDALE HYBRID
POWER PROJECT***

Docket No. 08-AFC-9

PROOF OF SERVICE

(Revised 7/1/2010)

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DECLARATION OF SERVICE

I, Sabrina Savala, declare that on, July 7, 2010, I served and filed copies of the attached PHPP Antelope Valley AQMD Response to Staff's Comments on FDOC, dated June 29, 2010. 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/palmdale/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:

(Check all that Apply)

For service to all other parties:

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

by personal delivery;

by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

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. 08-AFC-9

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Sabrina Savala