

DOCKET	
08-AFC-9	
DATE	<u>FEB 25 2011</u>
RECD.	<u>FEB 25 2011</u>

STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the Matter of:

Application for Certification
for the Palmdale Hybrid Power Project

Docket No. 08-AFC-9

Joint Stipulation of Energy Commission Staff and Applicant Regarding Changes to the Final Staff Assessment

On February 14, 2011, Energy Commission staff conducted a workshop to discuss the remaining areas of disagreement between staff and the other parties. At this workshop staff and applicant agreed on changes to Final Staff Assessment (FSA) Conditions of Certification Trans-1 and Bio-8, 10, and 17. Additionally, staff recently discovered an inadvertent discrepancy in FSA Tables AQ-11, AQ-13 and AQ-17, the correction of which does not change staff’s conclusion in the Air Quality analysis. These changes are memorialized below.

Finally, staff has one clean-up item regarding the witness list for the evidentiary hearing. The staff analysts for the road paving analysis under Traffic and Transportation, Cultural Resources, and Soil and Water Resources are different from the analysts of those sections in the FSA. Because cross-examination in these technical areas will focus solely on the road paving analysis, the witness list should be modified to reflect the following as live witnesses: Traffic and Transportation – Eric Veerkamp; Cultural Resources – Sarah Allred; and Soil and Water Resources – Marylou Taylor. Mr. Veerkamp and Ms. Taylor’s resumes are contained in staff’s rebuttal testimony. Ms. Allred’s resume was inadvertently left out of that document and is attached.

- TRANS-1** The project owner shall prepare and implement a construction traffic control plan. The traffic control plan must include but not be limited to the following issues:
- Prepare and distribute a map of the route for construction workers to use to access the proposed project site (SR-14 to Avenue M to the PHPP site; Schedule construction activities such that traffic will arrive and depart from the power plant site during non-peak traffic hours to the extent practicable taking into consideration Condition AQ-SC6. During the months of October through March when such scheduling may not be feasible, prepare and distribute a map showing acceptable

access routes to the plant site that avoid the SR-14 / Avenue M interchange during peak hours, such as SR-14 to Avenue L east to Sierra Highway south on Sierra Highway to Avenue M and east to the PHPP site;

- Make improvements to East Avenue M (e.g. turn and acceleration/deceleration lanes) consistent with existing project access features to allow for safe arrival/departure to/from the project site;
- Limit heavy equipment and building materials deliveries to between 9:30 am and 3:30 pm, per Palmdale General Plan Circulation Element, to minimize impacts and route truck traffic around residential development;
- Provide signing, lighting, and traffic control device placement during construction impacting regional and local roadways;
- Ensure construction traffic avoids using the SR-14 on and off-ramps to East Avenue M ~~and the intersection of Sierra Highway and East Avenue M~~ during peak morning and afternoon traffic periods;
- Traffic diversion plans (in coordination with the cities of Palmdale and Lancaster) to ensure access during temporary lane/road closures;
- Ensure ~~of~~ access for emergency vehicles to the project site;
- Ensurance of pedestrian and bicycle safety from construction vehicle travel routes and any construction-related temporary travel lane closures or disruptions;
- Temporary closure of travel lanes or disruptions to street segments and intersections during reconductoring activities or any other utility tie-ins;
- Establish a parking plan for workers, construction vehicles, and trucks during transmission line and pipeline construction;
- Installation of the natural gas pipeline and water line to occur during nonpeak hours;
- Use flagging, flag men, signage and cover open trenches when needed; and
- All road paving activities shall comply with engineering design standards for road development pursuant to guidelines mandated by the Public Works Departments of the City of Palmdale and the County of Los Angeles as appropriate.

Verification: At least 90 days prior to the start of site mobilization, the project owner shall submit a traffic control plan that outlines each component above to Caltrans and the cities of Palmdale and Lancaster Planning Departments for review and comment and to the CPM for review and approval. The project owner shall provide the CPM with any comments from Caltrans and the cities of Palmdale and Lancaster.

Impact Avoidance And Minimization Measures

- BIO-8** The project owner shall undertake the following measures to manage the construction site and related facilities in a manner to avoid or minimize impacts to biological resources:
1. Limit Disturbance Area. The boundaries of all areas to be disturbed (including staging areas, access roads, and sites for temporary placement of spoils) shall be delineated with stakes and flagging prior to construction activities in consultation with the Designated Biologist. Spoils shall be stockpiled in disturbed areas lacking native vegetation and which do not provide habitat for special-status species. Parking areas, staging and disposal site locations shall also be located in areas without native vegetation or special-status species habitat. All disturbances, vehicles, and equipment shall be confined to the flagged areas.
 2. Minimize Road Impacts. New and existing roads that are planned for construction, widening, or other improvements shall not extend beyond the flagged impact area as described above. All vehicles passing or turning around will do so within the planned impact area or in previously disturbed areas. Where new access is required outside of existing roads (e.g. new spur roads) or the construction zone, the route will be clearly marked (i.e., flagged and/or staked) prior to the onset of construction.
 3. Minimize Traffic Impacts. Vehicular traffic during project construction and operation shall be confined to existing routes of travel to and from the project site, and cross country vehicle and equipment use outside designated work areas shall be prohibited. The speed limit shall not exceed 25 miles per hour within the project area, on maintenance roads for linear facilities, or on access roads to the PHPP site.
 4. Monitor During Construction. The Designated Biologist or Biological Monitor shall be present at the construction site during all project activities that have potential to disturb soil, vegetation, and wildlife.

In areas that could support desert tortoise, Mohave ground squirrel, or any other sensitive wildlife species, the USFWS-approved Designated Biologist or Biological Monitor shall walk immediately ahead of equipment during brushing and grading activities.

5. Salvage Wildlife during Clearing and Grubbing. The Designated Biologist or Biological Monitor shall salvage and relocate sensitive wildlife during clearing and grading operations. The species shall be salvaged when conditions will not jeopardize the health and safety of the monitor and relocated off-site habitat.
6. Minimize Impacts of Transmission/Pipeline Alignments, Roads, and Staging Areas. For construction activities outside of the plant site (transmission line, pipeline alignments) access roads, pulling sites, and storage and parking areas shall be designed, installed, and maintained with the goal of minimizing impacts to native plant communities and sensitive biological resources. Transmission lines and all electrical components shall be designed, installed, and maintained in accordance with the Avian Power Line Interaction Committee's (APLIC's) *Suggested Practices for Avian Protection on Power Lines* (APLIC 2006) and *Mitigating Bird Collisions with Power Lines* (APLIC 2004) to reduce the likelihood of bird electrocutions and collisions.
7. Avoid Use of Toxic Substances. Road surfacing and sealants as well as soil bonding and weighting agents used on unpaved surfaces shall be non-toxic to wildlife and plants. Anticoagulants shall not be used for rodent control.
8. Minimize Lighting Impacts. Facility lighting shall be designed, installed, and maintained to prevent side casting of light towards wildlife habitat.
9. Avoid Vehicle Impacts to Desert Tortoise. No vehicles or construction equipment shall be moved prior to an inspection of the ground beneath the vehicle for the presence of desert tortoise. If a desert tortoise is observed, it will be left to move on its own. If the tortoise does not move, the animal will be relocated to a safe location within 500 feet of the project area. No tortoise shall be moved without authorization from the CDFG, USFWS, and CPM.
10. Avoid Wildlife Pitfalls. At the end of each work day, the Designated Biologist shall ensure that all potential wildlife pitfalls (trenches, bores, and other excavations) outside the permanently fenced area have been backfilled. If backfilling is not feasible, all trenches, bores, and other excavations shall be sloped at a 3:1 ratio at the ends to provide wildlife escape ramps, or covered completely to prevent wildlife access, or fully enclosed with tortoise-exclusion fencing. All trenches, bores, and other excavations shall be inspected periodically throughout and at the end of each workday by the Designated

Biologist or a Biological Monitor. Should wildlife become trapped, the Designated Biologist or Biological Monitor shall remove and relocate the individual to a safe location. Any wildlife encountered during the course of construction shall be allowed to leave the construction area unharmed.

11. Avoid Entrapment of Desert Tortoise and Mohave Ground Squirrel. Any construction pipe, culvert, or similar structure with a diameter greater than 3 inches, stored less than 8 inches above ground and within desert tortoise or Mohave ground squirrel habitat for one or more days/nights, shall be inspected for tortoises or Mohave ground squirrel before the material is moved, buried, or capped. As an alternative, all such structures may be capped before being stored outside the fenced area, or placed on pipe racks. These materials would not need to be inspected or capped if they are stored within the permanently fenced area after the clearance surveys have been completed.
12. Minimize Standing Water. Water applied to dirt roads and construction areas (trenches or spoil piles) for dust abatement shall use the minimal amount needed to meet safety and air quality standards in an effort to prevent the formation of puddles, which could attract desert tortoises and common ravens to construction sites. A Biological Monitor shall patrol these areas to ensure water does not puddle and attract desert tortoise, common ravens, and other wildlife to the site and shall take appropriate action to reduce water application where necessary.
13. Minimize Spills of Hazardous Materials. All vehicles and equipment shall be maintained in proper working condition to minimize the potential for fugitive emissions of motor oil, antifreeze, hydraulic fluid, grease, or other hazardous materials. The Designated Biologist shall be informed of any hazardous spills immediately as directed in the project Hazardous Materials Plan. Hazardous spills shall be immediately cleaned up and the contaminated soil properly disposed of at a licensed facility. Servicing of construction equipment shall take place only at a designated area. Service/maintenance vehicles shall carry a bucket and pads to absorb leaks or spills.
14. Worker Guidelines. During construction all trash and food-related waste shall be placed in self-closing containers and removed daily from the site. Workers shall not feed wildlife or bring pets to the project site. Except for law enforcement personnel, no workers or visitors to the site shall bring firearms or weapons.
15. Avoid Spread of Noxious Weeds. The project owner shall implement the following Best Management Practices during construction and operation to prevent the spread and propagation of noxious weeds:
 - a. Limit the size of any vegetation and/or ground disturbance to the absolute minimum and limit ingress and egress to defined routes;
 - b. Prevent spread of non-native plants via vehicular sources by implementing Trackclean™ or other methods of vehicle cleaning for vehicles coming and going from construction sites. Earth-moving equipment shall be cleaned prior to transport to the construction site;

- c. Use only weed-free straw, hay bales, and seed for erosion control and sediment barrier installations, and
 - d. Avoid using invasive non-native species in landscaping plans and erosion control.
16. Stockpile Topsoil. To increase chances for revegetation success, topsoil shall be stockpiled from the project plant site and along project linear features for use in revegetation of temporarily disturbed areas. The top two (2) to six (6) to eight (8) inches of native topsoil, depending on soil conditions that occur at each area subject to temporary disturbance that are relatively free of noxious weeds such as Russian thistle, yellow star thistle, or similar exotics shall be scraped and separately stockpiled for use in revegetation from the least disturbed locations and only areas that are relatively free of noxious weeds shall be used as a source of topsoil. The amount of topsoil needed for the project plant site and laydown area will be estimated when final design plans are available, and only the amount expected to be needed for revegetation of temporarily disturbed areas will be collected and stockpiled. All other elements of The collection and stockpiling of topsoil use shall be conducted as described in Rehabilitation of Disturbed Lands in California (Newton and Claassen 2003, pp. 39-40).
17. Implement Erosion Control Measures. Standard erosion control measures shall be implemented for all phases of construction and operation where sediment run-off from exposed slopes threatens to enter “Waters of the State”. Sediment and other flow-restricting materials shall be moved to a location where they shall not be washed back into the stream. All disturbed soils and roads within the project site shall be stabilized to reduce erosion potential, both during and following construction. Areas of disturbed soils (access and staging areas) with slopes toward a drainage shall be stabilized to reduce erosion potential.
18. Monitor Ground-Disturbing Activities Prior to Site Mobilization. If ground-disturbing activities are required prior to site mobilization, such as for geotechnical borings or hazardous waste evaluations, a Designated Biologist or Biological Monitor shall be present to monitor any actions that could disturb soil, vegetation, or wildlife.
19. Control and Regulate Fugitive Dust. To reduce the potential for the transmission of fugitive dust the owner shall implement dust control measures. These shall include:
- a. The owner shall apply non-toxic soil binders, equivalent or better in efficiencies than the CARB- approved soil binders, to active unpaved roadways, unpaved staging areas, and unpaved parking area(s) throughout construction to reduce fugitive dust emissions.

- b. Water the disturbed areas of the active construction sites at least three times per day and more often if uncontrolled fugitive dust is noted.
- c. Enclose, cover, water twice daily, and/or apply non-toxic soil binders according to manufacturer's specifications to exposed piles with a 5% or greater silt content.
- d. Establish a vegetative ground cover (in compliance with biological resources impact mitigation measures above) or otherwise create stabilized surfaces on all unpaved areas at each of the construction sites within 21 days after active construction operations have ceased.
- e. Increase the frequency of watering, if water is used as a soil binder for disturbed surfaces, or implement other additional fugitive dust mitigation measures, to all active disturbed fugitive dust emission sources when wind speeds (as instantaneous wind gusts) exceed 25 mph.

Verification: All mitigation measures and their implementation methods shall be included in the BRMIMP and implemented. Implementation of the measures will be reported in the Monthly Compliance Reports by the Designated Biologist. Within 30 days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction termination report identifying how measures have been completed.

Restoration Plan For Impacts To Native Vegetation Communities

BIO-10 The project owner shall provide restoration for impacts to native vegetation communities and develop and implement a Restoration Plan for all areas subject to temporary project disturbance. Upon completion of construction, all temporarily disturbed areas shall be revegetated, excluding the road and roadbed. The following measures shall be implemented for the revegetation effort areas not subject to the facility Landscape Plan. These measures will include:

1. Plan Details. The plans shall include at minimum: (a) the location of the mitigation site; (b) locations and details for top soil storage; (c) the plant species to be used; (d) seed collection guidelines; (e) a schematic depicting the mitigation area; (f) time of year that the planting will occur and the methodology of the planting; (g) a description of the irrigation methodology if used; (h) measures to control exotic vegetation on site; (i) success criteria; (j) a detailed monitoring program; and k) locations and impacts to all Joshua and Juniper Trees. All habitats dominated by non-native species prior to project disturbance shall be revegetated using appropriate native species.

2. Topsoil Salvage. Topsoil shall be stockpiled from the project plant site and linear features for use in revegetation of temporarily ~~the~~ disturbed soils. The top two (2) to six (6) to eight (8) inches of soil below depending on soil conditions that occur at each area subject to temporary disturbance that are relatively free of noxious weeds such as Russian thistle, yellow star thistle, or similar exotics shall be scraped and separately stockpiled for use in revegetation of temporarily disturbed areas. The amount of topsoil needed for the project plant site and laydown area will be estimated when final design plans are available, and only the amount expected to be needed for revegetation of temporarily disturbed areas will be collected and stockpiled. All other elements related to ~~€~~The collection and stockpiling of topsoil shall be conducted as described on pages 39-40 of *Rehabilitation of Disturbed Lands in California* (Newton and Claassen 2003).
3. Seed Stock. Only seed of locally occurring species shall be used for revegetation. Seeds shall contain a mix of short-lived early pioneer species such as native annuals and perennials and subshrubs (for example, squirreltail, cheesebush, matchweed, peppergrass, rabbitbrush, creosote bush, burro-weed, wolfberry, Nevada tea, needlegrass, rice grass, goldenhead). Seeding shall be conducted as described in Chapter 5 of *Rehabilitation of Disturbed Lands in California* (Newton and Claassen 2003). A list of plant species suitable for Mojave Desert region revegetation projects, including recommended seed treatments, are included in Appendix A-8 of the same report. The list of plants observed during the 2010 special-status plant surveys of the PHPP project area can also be used as a guide to site-specific plant selection for revegetation.
4. Monitoring Requirement and Success Criteria. Post-seeding and planting monitoring will be yearly from years one to five or until the success criteria are met. If the survival and cover requirements have not been met, the owner is responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements as previously mentioned. Remediation activities (e.g. additional planting, removal of non-native invasive species, or erosion control) shall be taken during the five-year period if necessary to ensure the success of the restoration effort. If the mitigation fails to meet the established performance criteria after the five-year maintenance and monitoring period, monitoring and remedial activities shall extend beyond the five-year period until the criteria are met or unless otherwise specified by the Energy Commission. If a fire occurs in a revegetation area within the five-year monitoring period, the owner shall be responsible for a one-time replacement. If a second fire occurs, no replanting is required, unless the fire is caused by the owner's activity.

Verification: All mitigation measures and their implementation methods shall be included in the BRMIMP and implemented. Within 90 days after completion of project construction, the project owner shall provide to the CPM verification of the total vegetation and community subject to temporary and permanent disturbance. If habitat

disturbance exceeded that described in this analysis, the CPM shall notify the project owner of any additional mitigation required to compensate for any additional habitat disturbances. To monitor and evaluate the success of the restoration the owner shall submit annual reports of the restoration including the status of the site, percent cover of native and exotics, and any remedial actions conducted by the owner to the CPM.

Swainson's Hawk Habitat Compensatory Mitigation

BIO-17 The project owner shall either assume that Swainson's hawk nest within five miles of the project site and provide compensatory mitigation as described below or complete CDFG protocol surveys within five miles of project facilities that result in permanent impacts to Swainson's hawk foraging habitat. If surveys are completed they shall include the following components.

The survey periods shall follow a specified schedule: Period I occurs from 1 January to 31 March, Period II occurs from 1 April to 30 April, Period III occurs from 1 May to 30 May, and Period IV occurs from 1 June to 15 July. No fewer than three surveys per period in at least two survey periods shall be completed immediately prior to the start of project construction. All nest sites shall be recorded, mapped using GIS and provided to the CPM and CDFG. Compensatory mitigation at a 2:1 ratio shall be required for permanent impacts. If active Swainson's hawk nests (i.e., any nest active within five years) are not detected within 5 miles of the project site or linear facilities, the project owner will not be required to provide compensatory mitigation.

If the project owner assumes presence, the project owner shall provide compensatory mitigation acreage for 610 acres of Swainson's hawk habitat lands, adjusted to reflect the final project footprint, as specified in this condition. In addition, the project owner shall provide funding for initial improvement and long-term maintenance, enhancement, and management of the acquired lands for protection and enhancement Swainson's hawk populations, and comply with other related requirements of this condition.

- a. Loss of foraging habitat for Swainson's hawks shall be mitigated by providing Habitat Management (HM) lands at a ratio of 2:1 for any foraging habitat impacted within a 5-mile radius of active Swainson's hawk nest(s) (CDFG considers a nest active if it was used one or more times within the last 5 years). Foraging habitat includes but is not limited to alfalfa; fallow fields; beet, tomato, onions, and other low-growing row or field crops; dry-land and irrigated pasture; and cereal grain crops (including corn after harvest). Joshua tree woodland shall be considered foraging habitat in the Antelope Valley.
- b. Lands which are currently in urban use or lands that have no existing or potential value for foraging Swainson's hawks will not require mitigation. The project owner will provide the CPM and CDFG a report of potential foraging lands impacted by the proposed project as determined by

consultation with the CDFG and recent site-specific surveys conducted by a CDFG-qualified raptor biologist.

This acreage was calculated as follows: a ratio of 2:1 for the PHPP power plant site (610 acres) and a 2:1 ratio (10.22 acres) for the loss of agricultural lands associated with Segment 1 of the transmission line. Costs of these requirements are estimated to be \$9,000,550.00 (see **Biological Resources Tables 4a** for a complete breakdown of costs and acreage). All costs are best estimates as of fall 2010. Actual costs will be determined at the time of the transactions and may change the funding needed to implement the required mitigation obligation based on changing land costs or management fees. Regardless of the estimates, the project owner is responsible for providing adequate funding to implement the required mitigation.

These impact acreages shall be adjusted to reflect the final project footprint. For purposes of this condition, the Project footprint means all lands disturbed in the construction and operation of the Palmdale Hybrid Power Plant Project Site and 10.22 acres of agricultural lands that occur on Segment 1.

This compensation acreage may be included (“nested”) within the acreage acquired and managed as Mohave ground squirrel habitat compensation (Condition of Certification **BIO-20**) only if:

- A minimum of 610 acres of suitable foraging habitat including a minimum of 366.3 acres of Joshua tree woodland, ~~233.4 acres of Mojave creosote bush scrub and 10 acres of agricultural lands~~ are present.
- The composition of vegetation communities that occur within the proposed mitigation lands, including the acreage of Joshua tree woodland, may be adjusted based on the habitat value of the proposed mitigation lands with the approval of the CPM and CDFG.
- The Mohave ground squirrel habitat compensation lands are acquired and dedicated as permanent conservation lands within 18 months of the start of project construction.

If these two criteria are not met, then the project owner shall provide the required number of acres of Swainson’s hawk habitat compensation lands, adjusted to reflect the final project footprint and additional delineation of

suitable habitat, independent of any compensation land required under other conditions of certification, and shall also provide funding for the initial improvement and long-term maintenance and management of the acquired lands, and shall comply with other related requirements this condition.

The project owner shall provide financial assurances as described below in the amount of \$9,000,550.00. In lieu of acquiring lands itself, the Project owner may satisfy the requirements of this condition by depositing funds into a Renewable Energy Action Team (REAT) Account established with the

National Fish and Wildlife Foundation (NFWF), as described below. If the Project owner elects to establish a REAT NFWF Account and have NFWF and the agencies complete the required habitat compensation, then the total estimated cost of complying with this condition is \$9,252,876.50. The amount of security or NFWF deposit shall be adjusted up or down to reflect any revised cost estimates recommended by REAT.

The actual costs to comply with this condition will vary depending on the final footprint of the project, the costs of acquiring compensation habitat, the costs of initially improving the habitat, and the actual costs of long-term management as determined by a Property Analysis Report or similar analysis (below). The 610 acre habitat requirement, and associated funding requirements based on that acreage, shall be adjusted up or down if there are changes in the final footprint of the project or the associated costs of evaluation, acquisition, management, and other factors listed in **Biological Resources Tables 4a**. Regardless of actual cost, the project owner shall be responsible for funding all requirements of this condition.

COMPENSATORY MITIGATION LAND ACQUISITION

1. Method of Acquisition. Compensation lands shall be acquired by either of the two options listed below. Regardless of the method of acquisition, the transaction shall be complete only upon completion of all terms and conditions described in this Condition of Certification.
 - a. The project owner shall acquire lands and transfer title and/or conservation easement to a state or federal land management agency or to a third-party non-profit land management organization, as approved by the CPM in consultation with CDFG; or
 - b. The Project owner shall deposit funds into a project-specific subaccount within the REAT Account established with the NFWF, in the amount as indicated in **Biological Resources Tables 4a**

(adjusted to reflect final project footprint and any applicable REAT adjustments to costs).

2. Selection Criteria for Compensation Lands. The compensation lands selected for acquisition to meet Energy Commission and CESA requirements shall be equal to or better than the quality and function of the habitat impacted and:
 - a. Be within the Western Mojave Desert;
 - b. Provide moderate to good quality foraging habitat for Swainson's hawk with capacity to improve in quality and value for this species; and

- c. Be near lands for which there is reasonable evidence (for example, recent (<15 years) CNDDDB occurrences on or immediately adjacent to the proposed lands) suggesting current occupation by Swainson's hawk ideally with populations that are stable, recovering, or likely to recover.
 - d. Be near larger blocks of lands that are either already protected or planned for protection, or which could feasibly be protected long-term by a public resource agency or a non-governmental organization dedicated to habitat preservation;
 - e. not have a history of intensive recreational use or other disturbance that might cause future erosional damage or other habitat damage, and make habitat recovery and restoration infeasible;
 - f. not be characterized by high densities of invasive species, either on or immediately adjacent to the parcels under consideration, that might jeopardize habitat recovery and restoration; and
 - g. not contain hazardous wastes that cannot be removed to the extent that the site could not provide suitable habitat; and
 - h. have water and mineral rights included as part of the acquisition, unless the CPM, in consultation with CDFG, agrees in writing to the acceptability of land without these rights.
3. Review and Approval of Compensation Lands Prior to Acquisition. The project owner shall submit a formal acquisition proposal to the CPM describing the parcel(s) intended for purchase. This acquisition proposal shall discuss the suitability of the proposed parcel(s) as compensation lands for Swainson's hawk in relation to the criteria listed above and must be approved by the CPM. The CPM will share the proposal with and consult with CDFG before deciding whether to approve or disapprove the proposed acquisition.
4. Compensation Lands Acquisition Conditions: The project owner shall comply with the following conditions relating to acquisition of the compensation lands after the CPM, in consultation with CDFG approved the proposed compensation lands:
- a. Preliminary Report: The Project owner, or approved third party, shall provide a recent preliminary title report, initial hazardous materials survey report, biological analysis, and other necessary or requested documents for the proposed compensation land to the CPM. All documents conveying or conserving compensation lands and all conditions of title are subject to review and approval by the CPM, in consultation with CDFG. For conveyances to the State, approval may also be required from the California Department of General Services, the Fish and Game Commission and the Wildlife Conservation Board.

- b. Title/Conveyance: The Project owner shall acquire and transfer fee title to the compensation lands, a conservation easement over the lands, or both fee title and conservation easement as required by the CPM in consultation with CDFG. Any transfer of a conservation easement or fee title must be to CDFG, a non-profit organization qualified to hold title to and manage compensation lands (pursuant to

California Government Code section 65965), or to other public agency approved by the CPM in consultation with CDFG. If an approved non-profit organization holds fee title to the compensation lands, a conservation easement shall be recorded in favor of CDFG or another entity approved by the CPM. If an approved non-profit holds a conservation easement, CDFG shall be named a third party beneficiary. If an entity other than CDFG holds a conservation easement over the compensation lands, the CPM may require that CDFG or another entity approved by the CPM, in consultation with CDFG, be named a third party beneficiary of the conservation easement. The Project owner shall obtain approval of the CPM, in consultation with CDFG, of the terms of any transfer of fee title or conservation easement to the compensation lands.

- c. Property Analysis Record. Upon identification of the compensation lands, the Project owner shall conduct a Property Analysis Record (PAR) or PAR-like analysis to establish the appropriate amount of the long-term maintenance and management fund to pay the in-perpetuity management of the compensation lands. The PAR or PAR-like analysis must be approved by the CPM, in consultation with CDFG, before it can be used to establish funding levels or management activities for the compensation lands.
5. Compensation Lands Acquisition Costs: The Project owner shall pay all other costs related to acquisition of compensation lands and conservation easements. In addition to actual land costs, these acquisition costs shall include but shall not be limited to the items listed below. Management costs including site cleanup measures are described separately, in the following section.
 - a. Level 1 Environmental Site Assessment;
 - b. Appraisal;
 - c. Title and document review costs;
 - d. Expenses incurred from other state, federal, or local agency reviews;
 - e. Closing and escrow costs;
 - f. Overhead costs related to providing compensation lands to CDFG or an approved third party;
 - g. Biological survey(s) to determine mitigation value of the land; and
 - h. Agency costs to accept the land (e.g., writing and recording of conservation easements; title transfer).

COMPENSATORY MITIGATION LAND IMPROVEMENT

1. Land Improvement Requirements: The Project owner shall fund activities that the CPM, in consultation with the CDFG, requires for the initial protection and habitat improvement of the compensation lands. These activities will vary depending on the condition and location of the land acquired, but may include surveys of boundaries and property lines, installation of signs, trash removal and other site cleanup measures, construction and repair of fences, invasive plant removal, removal of roads, and similar measures to protect habitat and improve habitat quality on the compensation lands.

The costs of these activities are estimated at \$250 an acre, but will vary depending on the measures that are required for the compensation lands. A non-profit organization, CDFG or another public agency may hold and expend the habitat improvement funds if it is qualified to manage the compensation lands (pursuant to California Government Code section 65965), if it meets the approval of the CPM in consultation with CDFG, and if it is authorized to participate in implementing the required activities on the compensation lands. If CDFG takes fee title to the compensation lands, the habitat improvement fund must be paid to CDFG or its designee.

COMPENSATORY MITIGATION LAND LONG-TERM MANAGEMENT

1. Long-term Management Requirements: Long-term management is required to ensure that the compensation lands are managed and maintained to protect and enhance habitat for desert tortoise. Management activities may include maintenance of signs, fences, removal of invasive weeds, monitoring, security and enforcement, and control or elimination of unauthorized use.
2. Long-term Management Plan. The project owner shall pay for the preparation of a Management Plan for the compensation lands. The Management Plan shall reflect site-specific enhancement measures on the acquired compensation lands. The plan shall be submitted for approval of the CPM, in consultation with CDFG.
3. Long-Term Maintenance and Management Funding. The Project owner shall provide money to establish an account with a non-wasting capital that will be used to fund the long-term maintenance and management of the compensation lands. The amount of money to be paid will be determined through an approved PAR or PAR-like analysis conducted for the compensation lands. The amount of required funding is initially estimated to be \$1,450 for every acre of compensation lands. If compensation lands will not be identified and a PAR or PAR-like analysis

completed within the time period specified for this payment (see the verification section at the end of this condition), the Project owner shall provide initial payment of \$854,500.00 calculated at \$1,450 an acre for each compensation acre, as shown in **Biological Resources Tables 4a** (above) into an account for long-term maintenance and management of compensation lands. The amount of the required initial payment or security for this item shall be adjusted for any change in the Project footprint as described above. If an initial payment is made based on the estimated per-acre costs, the project owner shall deposit additional money as may be needed to provide the full amount of long-term maintenance and management funding indicated by a PAR or PAR-like analysis, once the analysis is completed and approved. If the approved analysis indicates less than \$1,450 an acre will be required for long-term maintenance and management, the excess paid will be returned to the Project owner.

The project owner must obtain the CPM's approval of the entity that will receive and hold the long-term maintenance and management fund for the compensation lands. The CPM will consult with the project owner and CDFG before deciding whether to approve an entity to hold the project's long-term maintenance and management funds on any lands. The CPM, in consultation with the project owner and CDFG, may designate another state agency or non-profit organization to hold the long-term maintenance and management fee if the organization is qualified to manage the compensation lands in perpetuity.

If CDFG takes fee title to the compensation lands, CDFG shall determine whether it will hold the long-term management fee in the special deposit fund, leave the money in the REAT Account, or designate another entity such as NFWF to manage the long-term maintenance and management fee for CDFG and with CDFG supervision.

The Project owner shall ensure that an agreement is in place with the long-term maintenance and management fee holder/manager to ensure the following conditions:

- i. Interest. Interest generated from the initial capital shall be available for reinvestment into the principal and for the long-term operation, management, and protection of the approved compensation lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action approved by CDFG designed to protect or improve the habitat values of the compensation lands.
- ii. Withdrawal of Principal. The long-term maintenance and management fee principal shall not be drawn upon unless such withdrawal is deemed necessary by the CPM, in consultation with CDFG, or the approved third-party long-term maintenance and management fee manager to ensure the continued viability of the species on the compensation lands. If CDFG takes fee title to the compensation lands, monies received by CDFG pursuant to this provision shall be deposited in a special deposit fund established solely for the purpose to manage lands in perpetuity

unless CDFG designates NFWF or another entity to manage the long-term maintenance and management fee for CDFG.

- iii. Pooling Funds. A CPM- approved non-profit organization qualified to hold long-term maintenance and management fees solely for the purpose to manage lands in perpetuity, may pool the fund with other funds for the operation, management, and protection of the compensation lands for local populations of desert tortoise. However, for reporting purposes, the long-term maintenance and management fee fund must be tracked and reported individually to the CDFG and CPM.
- iv. Reimbursement Fund. The project owner shall provide reimbursement to CDFG or an approved third party for reasonable expenses incurred during title, easement, and documentation review; expenses incurred from other State or State-approved federal agency reviews; and overhead related to providing compensation lands.

COMPENSATORY MITIGATION LAND SECURITY

1. Compensation Mitigation Security: The project owner shall provide security sufficient for funding acquisition, improvement, and long-term management of Swainson’s hawk compensation land. Financial assurance can be provided to the CPM in the form of an irrevocable letter of credit, a pledged savings account or another form of security (“Security”). Prior to submitting the Security to the CPM, the Project owner shall obtain the CPM’s approval, in consultation with CDFG of the form of the Security.

The security amount shall be based on the estimates provided in **Biological Resources Tables 4a**. This amount shall be updated and verified prior to payment and shall be adjusted to reflect actual costs or more current estimates as agreed upon by the REAT agencies.

The Project owner shall provide verification that financial assurances have been established to the CPM with copies of the document(s) to CDFG, to guarantee that an adequate level of funding is available to implement any of the mitigation measures required by this condition that are not completed prior to the start of ground-disturbing activities described in Section A of this condition. In the event that the project owner defaults on the Security, the CPM may use money from the Security solely for implementation of the requirements of this condition. The CPM’s use of the security to implement measures in this condition may not fully satisfy the Project owner’s obligations under this condition. Any amount of the Security that is not used to carry out mitigation shall be returned to the Project owner upon successful completion of the associated requirements in this condition.

Security for the requirements of this condition shall be provided in the amount of \$9,252,876.50 if the project owner elects to use the REAT Account with NFWF pursuant to paragraph 4 of this condition, below).

The Security is calculated in part from the items that follow but adjusted as specified below (consult **Biological Resources Tables 4a** for the complete breakdown of estimated costs). However, regardless of the amount of the security or actual cost of implementation, the project owner shall be responsible for implementing all aspects of this condition.

- i. land acquisition costs for compensation land, calculated at \$10,000/acre;
 - ii. Site assessments, appraisals, biological surveys, transaction closing and escrow costs, calculated as \$18,000 total per parcel (presuming 60 acres per parcel);
 - iii. Initial site clean-up, restoration, or enhancement, calculated at \$250/acre;
 - iv. Third-party and agency administrative transaction costs and overhead, calculated as percentages of land cost;
 - v. Long-term management and maintenance fund, calculated at \$1,450 per acre;
 - vi. NFWF fees to establish a project-specific account; manage the sub-account for acquisition and initial site work; and manage the sub-account for long term management and maintenance.
2. The project owner may elect to comply with some or all of the requirements in this condition by providing funds to implement the requirements into the Renewable Energy Action Team (REAT) Account established with the National Fish and Wildlife Foundation (NFWF). To use this option, the Project owner must make an initial deposit to the REAT Account in an amount equal to the estimated costs of implementing the requirement (as set forth in the Security section of this condition, paragraph 3, above). If the actual cost of the acquisition, initial protection and habitat improvements, long-term funding or other cost is more than the estimated amount initially paid by the project owner, the project owner shall make an additional deposit into the REAT Account sufficient to cover the actual acquisition costs, the actual costs of initial protection and habitat improvement on the compensation lands, the long-term funding requirements as established in an approved PAR or PAR-like analysis, or the other actual costs that are estimated in the table. If those actual costs or PAR projections are less than the amount initially transferred by the applicant, the remaining balance shall be returned to the project owner.
3. The responsibility for acquisition of compensation lands may be delegated to a third party other than NFWF, such as a non-governmental organization supportive of desert habitat conservation, by written agreement of the Energy Commission. Such delegation shall be subject to approval by the CPM, in consultation with CDFG prior to land acquisition, enhancement or management activities. Agreements to delegate land acquisition to an approved third party, or

to manage compensation lands, shall be executed and implemented within 18 months of the Energy Commission's certification of the project.

4. The project owner may request the CPM to provide it with all available information about any funds held by the Energy Commission, CDFG or NFWF as project security, or funds held in a NFWF sub-account for this project, or other project-specific account held by a third party. The CPM shall also fully cooperate with any independent audit that the project owner may choose to perform on any of these funds.

Verification: The project owner shall provide the CPM with either the results of the nesting surveys or written verification that the project owner shall assume presence no less than 60 days prior to ground disturbance or site mobilization. on the project site.

If the mitigation actions required under this condition are not completed at least 30 days prior to the start of ground-disturbing activities, the Project owner shall provide verification to the CPM and CDFG that an approved Security has been established in accordance with this condition of certification no later than 30 days prior to beginning Project ground-disturbing activities. Financial assurance can be provided to the CPM in the form of an irrevocable letter of credit, a pledged savings account or another form of

security ("Security"). Prior to submitting the Security to the CPM, the project owner shall obtain the CPM's approval, in consultation with CDFG of the form of the Security. The project owner, or an approved third party, shall complete and provide written verification to the CPM and CDFG of the compensation lands acquisition and transfer within 18 months of the start of Project ground-disturbing activities.

No later than 12 months after the start of any ground-disturbing project activities, the project owner shall submit a formal acquisition proposal to the CPM describing the parcel(s) intended for purchase, and shall obtain approval from the CPM, in consultation with CDFG prior to the acquisition. If NFWF or another approved third party is handling the acquisition, the project owner shall fully cooperate with the third party to ensure the

proposal is submitted within this time period. The project owner or an approved third party shall complete the acquisition and all required transfers of the compensation lands, and provide written verification to the CPM and CDFG of such completion, no later than 18 months after the issuance of the Energy Commission Decision.

The project owner shall complete and submit to the CPM a PAR or PAR-like analysis no later than 60 days after the CPM approves compensation lands for acquisition associated with any phase of construction. The project owner shall fully fund the required amount for long-term maintenance and management of the compensation lands for that phase of construction no later than 30 days after the CPM approves a PAR or PAR-like analysis of the anticipated long-term maintenance and management costs of the compensation lands. Written verification shall be provided to the CPM and CDFG to confirm payment of the long-term maintenance and management funds.

No later than 60 days after the CPM determines what activities are required to provide for initial protection and habitat improvement on the compensation lands for any phase of construction, the project owner shall make funding available for those activities and provide written verification to the CPM of what funds are available and how costs will be paid. Initial protection and habitat improvement activities on the compensation lands for that phase of construction shall be completed, and written verification provided to the CPM, no later than six months after the CPM’s determination of what activities are required on the compensation lands.

The project owner, or an approved third party, shall provide the CPM and CDFG with a management plan for the compensation lands associated with any phase of construction within 180 days of the land or easement purchase, as determined by the date on the title. The CPM, in consultation with CDFG shall approve the management plan after its content is acceptable to the CPM.

Within 90 days after completion of all project related ground disturbance, the project owner shall provide to the CPM and CDFG an analysis, based on aerial photography, with the final accounting of the amount of habitat disturbed during Project construction. If this analysis shows that more lands were disturbed than was anticipated in this condition, the project owner shall provide the Energy Commission with additional compensation lands and funding commensurate with the added impacts and applicable mitigation ratios set forth in this condition. A final analysis of all project related ground disturbance may not result in a reduction of compensation requirements if the deadlines established under this condition for transfer of compensation lands and funding have passed prior to completion of the analysis.

AIR QUALITY

A discrepancy in FSA Tables AQ-11, AQ-13 and AQ-17 was identified with the ambient background levels for 24-hour PM2.5. Footnote 2 of FSA Tables AQ-11, AQ-13 and AQ-17 *correctly* indicates that the proper ambient background for 24-hour PM2.5 should be the 3-year average of the 98th percentile value, per EPA guidance (see Memorandum from Stephen D. Page, EPA Director OAQPS, dated May 23, 2010 on “Modeling Procedures for Demonstrating Compliance with PM2.5 NAAQS,” available at <http://www.epa.gov/region7/air/nsr/nsrmemos/pm25memo.pdf>). However, FSA Tables AQ-11, AQ-13 and AQ-17 *incorrectly* use the maximum observed PM2.5 value at the Lancaster station from 2004 – 2009 for the ambient background concentration. Instead, the worst-case ambient background concentration value for 24-hour PM2.5 in FSA Tables AQ-11, AQ-13 and AQ-17 should be 16.3 µg/m³, based on the table below:

PM2.5 24-hour Concentrations (µg/m³) observed at the Lancaster Division Street Station						
	2005	2006	2007	2008	2009	Maximum 3-year Average
Maximum	28	18	25	24	20	--
98th Percentile	16	13	20	13	16	16.3

The table below provides the updated results for the PM2.5 24-hour analyses that should be replaced in FSA Tables AQ-11, AQ-13 and AQ-17. These changes do not affect staff's conclusions in the FSA Air Quality analysis that the project complies with all applicable laws, ordinances, regulations and standards (LORS) and will not cause a significant air quality impact:

FSA Table	Pollutant	Averaging Period	Concentration ($\mu\text{g}/\text{m}^3$)					Percent of Limiting Standard
			AERMOD Result	Ambient Background	Total	CAAQS	NAAQS	
AQ-11	PM2.5	24-hour	6.6	16.3	22.9	--	35	65%
AQ-13	PM2.5	24-hour	11.6	16.3	27.9	--	35	80%
AQ-17	PM2.5	24-hour	11.6	16.3	27.9	--	35	80%

DATED: February 25, 2011

Respectfully submitted,

/s/ Lisa M. DeCarlo

LISA M. DECARLO
 Senior Staff Counsel
 California Energy Commission
 1516 9th Street
 Sacramento, CA 95817
 Ph: (916) 654-5195
 e-mail: ldecarlo@energy.state.ca.us

RESUME

RESUME
February 2011

SARAH M. ALLRED

Environmental Planning and Cultural Resource Management

PROFESSIONAL STATEMENT

Twenty years experience working in an environmental planning capacity with an emphasis on cultural resources management in both private consulting and civil service settings. Currently serving as a cultural resource specialist performing technical analyses to assess the cultural resources implications of energy resource utilization and electric power generation in the context of the Energy Commission's certified regulatory program under the California Environmental Quality Act (CEQA) for the licensing of thermal power plants and related facilities. Duties performed include: the review and analysis of siting applications for adequacy in terms of cultural resources identification efforts, project-related impacts, and mitigation measures; negotiation with applicants, consultants, and other staff to develop solutions to achieve project objectives; the preparation and presentation of complex and comprehensive reports and recommendations, both orally and in writing, including analysis of complex data and working knowledge of legal requirements protecting cultural resources; formulation of mitigation techniques to avoid significant impacts to cultural resources; testifying as subject expert at Energy Commission project certification hearings; and participation in project site visits, public workshops, and hearings.

EDUCATION

Graduate Studies

Department of Anthropology
California State University, Sacramento, 1998 - 2003

Bachelor of Arts Degree, 1993

Department of Anthropology
California State University, Sacramento

EMPLOYMENT HISTORY

California Energy Commission

Title: Planner II – Cultural Resources Specialist
Dates: December 2009 – Present
Office location: Sacramento, California

California Department of Transportation

Title: Associate Environmental Planner – Cultural Resources
Dates: June 1998 – December 2009, full-time
Office location: Sacramento, California

Pacific Legacy, Incorporated

Title: Staff Archaeologist
Dates: November 1995 -- September 1997, full-time
Office location: Woodland, California

KEA Environmental

Title: Cultural Resource Specialist
Dates: May 1995 -- November 1995, full-time
Office location: Fair Oaks, California

BioSystems Analysis, Incorporated

Title: Staff Archaeologist
Dates: October 1993 -- May 1995, full-time
Office location: Sacramento, California

Archaeological Services, Incorporated

Title: Archaeological Technician
Dates: May 1990 -- October 1993, part- and full-time
Office location: Stockton, California

EXPERIENCE AND SKILL SUMMARY

- Compliance with a variety of both state and federal environmental laws including: the National Environmental Policy Act; the National Historic Preservation Act; The California Environmental Quality Act; the California Public Resources Code; California Department of Transportation Policies and Guidelines; and the California Energy Commission's certified regulatory program.
- Experience coordinating and consulting with a wide variety of local, state, and federal agencies, as well as private organizations, Native Americans, preservation interest groups, and individuals as a part of the planning and public participation process.
- Experience and proficiency in all aspects of archaeological method and analysis including literature research; cartography and map interpretation; field reconnaissance and inventory; resource documentation; archaeological site excavation; laboratory analyses; and the preparation and production of a variety of technical reports and environmental compliance documents.
- Proficient in a number of computer technologies enabling the collection, analysis, management, and presentation of cultural resource data, including the use of all major hardware and software applications for word processing, database management, spreadsheets, and graphic design/illustration; skilled in both conventional and digital photography.
- Training and experience in the use of Geographic Information Systems (GIS) tools and techniques for the research and management of resources in a planning setting; use of Global Positioning System (GPS) equipment for data input and ArcView software for spatial and relational database analyses.



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 1/14/2011)

APPLICANT

Thomas M. Barnett
Executive Vice President
Inland Energy, Inc.
3501 Jamboree Road
South Tower, Suite 606
Newport Beach, CA 92660
tbarnett@inlandenergy.com

Antonio D. Penna Jr.
Vice President
Inland Energy, Inc.
18570 Kamana Road
Apple Valley, CA 92307
tonypenna@inlandenergy.com

Laurie Lile
Assistant City Manager
City of Palmdale
38300 North Sierra Highway, Suite A
Palmdale, CA 93550
llile@cityofpalmdale.org

APPLICANT'S CONSULTANTS

Sara J. Head, QEP
Vice President
AECOM Environment
1220 Avenida Acaso
Camarillo, CA 93012
sara.head@aecom.com

COUNSEL FOR APPLICANT

Michael J. Carroll
Marc Campopiano
Latham & Watkins, LLP
650 Town Center Drive, Ste. 2000
Costa Mesa, CA 92626
michael.carroll@lw.com
marc.campopiano@lw.com

INTERESTED AGENCIES

Ronald E. Cleaves, Lt. Col, USAF
Commander ASC Det 1 Air Force
Plant 42
2503 East Avenue P
Palmdale, CA 93550
Ronald.Cleaves@edwards.af.mil

Erinn Wilson
Staff Environmental Scientist
Department of Fish & Game
18627 Brookhurst Street, #559
Fountain Valley, CA 92708
E-mail Service Preferred
ewilson@dfg.ca.gov

Richard W. Booth, Sr. Geologist
Lahontan Regional
Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150-2306
rbooth@waterboards.ca.gov

Rick Buckingham
3310 El Camino Avenue, LL-90
State Water Project
Power & Risk Office
Sacramento, CA 95821
E-mail Service Preferred
rbucking@water.ca.gov

Manuel Alvarez
Southern California Edison
1201 K Street
Sacramento, CA 95814
Manuel.Alvarez@sce.com

Robert C. Neal, P.E.
Public Works Director
City of Lancaster
44933 Fern Avenue
Lancaster, CA 93534-2461
rneal@cityoflancasterca.org

California ISO
E-mail Service Preferred
e-recipient@caiso.com

Robert J. Tucker
Southern California Edison
1 Innovation Drive
Pomona, CA 91768
Robert.Tucker@sce.com

Christian Anderson
Air Quality Engineer
Antelope Valley AQMD
43301 Division St, Suite 206
Lancaster, CA 93535
E-mail Service Preferred
canderson@avaqmd.ca.gov

Keith Roderick
Air Resources Engineer
Energy Section/Stationary Sources
California Air Resources Board
P.O. Box 2815
Sacramento, California 95812
E-mail Service Preferred
kroderic@arb.ca.gov

INTERVENORS

Lisa T. Belenky, Senior Attorney
***John Buse, Senior Attorney**
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
E-mail Service Preferred
lbelenky@biologicaldiversity.org
jbuse@biologicaldiversity.org

Jane Williams
Desert Citizens Against Pollution
Post Office Box 845
Rosamond, CA 93560
dcapjane@aol.com

ENERGY COMMISSION

JEFFREY D. BYRON
Commissioner and Presiding Member
jbyron@energy.state.ca.us

ANTHONY EGGERT
Commissioner and Associate Member
aeggert@energy.state.ca.us

Ken Celli
Hearing Officer
kcelli@energy.state.ca.us

Kristy Chew
Adviser to Commissioner Byron
E-mail Service Preferred
kchew@energy.state.ca.us

Felicia Miller
Project Manager
fmiller@energy.state.ca.us

Lisa DeCarlo
Staff Counsel
ldecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser
E-mail Service Preferred
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Rhea Moyer, declare that on, February 25, 2011, I served and filed copies of the attached Joint Stipulation of Energy Commission Staff and Applicant Regarding Changes to the Final Staff Assessment, dated February 25, 2011. 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.

/s/ Rhea Moyer

Rhea Moyer