STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:	DOCKET NO. 08-AFC-9
APPLICATION FOR CERTIFICATION FOR THE PALMDALE HYBRID POWER PROJECT	

INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S COMMENTS ON PMPD; REQUEST FOR OFFICIAL NOTICE; REQUEST TO CONTINUE THE COMMISSION HEARING AND REOPEN THE EVIDENTIARY RECORD

July 11, 2011

Lisa T. Belenky, Senior Attorney
John Buse, Senior Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
Direct: 415-632-5307
Fax: 415-436-9683
lbelenky@biologicaldiversity.org
jbuse@biologicaldiversity.org

INTRODUCTION

The Center for Biological Diversity provides these comments to help assist the Presiding Member and the Committee in revising the PMPD, assuming for the sake of argument alone that the proposed project may be permitted. However, the Center does not believe that the impacts of the proposed have been properly addressed or that the proffered mitigation is adequate to address the impacts of the proposed project. Due to these an inadequacies in the environmental review and unresolved questions regarding the conformance of the project with air quality laws and regulations, the Center believes that the project cannot be permitted at this time.

The Center also objects to the extremely short time provided to the parties for comments on the PMPD. The Committee has "required" comments from the Parties on the PMPD (which is over 660 pages long) by Monday, July 11 at 3 pm. The Center, nonetheless, offers the following initial comments on the PMPD and reserves the right to provide additional comments through the full public comment period ending on July 18 (as acknowledged in the notice of availability), at the July 14 Committee Conference, and up to and including at any other hearing or Committee or Commission meeting at which this application is considered.

The Center also notes that the Committee has not yet ruled on the request by the City of Lancaster for a temporary suspension of the CEC's processing the application which the Center supports as detailed in our Response filed on May 18, 2011.

SPECIFIC COMMENTS ON THE PMPD

Detailed comments on the PMPD are provided below:

Purpose and Need: After dismissing the relevance of "need" throughout the proceedings, now the PMPD admits that "evidence on need could be used to support various other findings required by Public Resources Code section 25523 and consistent with Title 20 California Code of Regulations section 1742." PMPD at 3-19. This is an understatement at best, as the "need" for the PHPP project is repeatedly cited in the staff documents and the PMPD as a basis for the decision, although the documents contain no evidence regarding any alleged "need." Shockingly, the PMPD then attempts to ignore this glaring hole in the Commission's CEQA analysis by a claim of "mootness" stating: "since no such offer of proof was made in this record, the issue of need is moot." *Id.*

The Center properly raised the issue of need at the pre-hearing conference, at the evidentiary hearing, and in briefing. CBD specifically raised the issue of other recent solar power plant

approvals in the area by the Commission and pending projects in the area and pointed out the failure of the Commission to show any "need" (although the staff documents use that term repeatedly). No further "offer of proof" was needed, it is the Commission's duty to analyze this issue under CEQA; the question of need is not moot, it is an omission in the CEQA analysis that must be cured. The PMPD and supporting documents remain grossly inadequate and provide no analysis regarding the need for the proposed project in light of other existing and recently approved projects including over 4,000 MW of solar projects in the California desert.

The inadequacy of the purpose and need analysis is material to the entire CEQA analysis and therefore must be revised. For example, the PMPD at 3-19 makes the unsubstantiated assertion in response to similar issues raised by the City of Lancaster, that "the PHPP serves a necessary function in the state's energy portfolio" – but there is no showing that is the case and this statement falsely implies that function is not now already being fully served by other projects across the state. As another example, the Staff analysis and PMPD rely on the alleged "need" for the project to supply the City of Palmdale with energy in the evening hours as a reason to reject an all-solar alternative and solar rooftop alternative. PMPD at 3-14. Similarly, PMPD and staff assumed a "need" for the proposed project to help integrate renewable energy and meet the state's RPS standards which has not been shown in this record. PMPD at 6.1-19. Indeed, the State's own documents regarding what is needed to meet RPS goals show to the contrary that this proposed project is *not* needed. The CAISO Integration of Renewable Resources – 20% RPS study shows that the existing "generation fleet possesses sufficient overall operational flexibility to reliably integrate 20 percent RPS in over 99 percent of the hours studied." (CAISO Integration of Renewable Resources – 20% RPS, August 31, 2010 at xv.)[1] Even more recent modeling regarding the integration of 33 percent renewables into the existing grid conducted by ISO for the Public Utilities Commission Long-Term Procurement Proceeding concluded that "[a]ssuming CA achieves demand side objectives preliminary results indicate most operational requirements can be satisfied with potential need for measures to address some over-generation conditions." (CAISO Summary of Preliminary Results of 33% Renewable Integration Study –

[1] This document is available at http://www.caiso.com/2804/2804d036401f0.pdf and is officially noticeable. 20 C.C.R. § 1213. The Center requests that the Committee that official notice of it in this proceeding.

2010 CPUC LTPP Docket No. R.10-05-006 (May 20, 2011) at Slide 51.)[2]

The Committee cannot hide behind a claim of "mootness" before the decision has been made on the proposed project and the PMPD cites to no provision that requires or allows it to ignore its duty to fully evaluate significant impacts of the proposed project based by simply ignoring information that may contradict assumptions in the staff analysis and PMPD. The issue of the need for the project is not "moot." On the contrary, as the PMPD now acknowledges an obvious flaw in the Commission review, the Committee should re-open the evidentiary record and analysis to ensure this issue is fully considered. The court in *San Franciscans for Reasonable Growth* aptly described a similar situation: "The only reason we can infer for the Commission's failure to consider and analyze this group of projects was that it was more expedient to ignore them. However, expediency should play no part in an agency's efforts to comply with CEQA." (151 Cal.App.3d at 74.)

Alternatives: The PMPD wrongly dismisses evaluation of reasonable alternatives based on a an unreasonably narrow view of the project objectives. PMPD at 3-14. An all-solar PV alternative at this site need not have the same MW output as the proposed project to be a reasonable alternative, a reasonable alternative could be an all-solar PV project on the same footprint with a smaller MW output. (*See* CBD Opening Br. at 15-17). Indeed, many PV solar projects have recently been approved or are currently in the approval process in the local area, some even smaller than an all solar alternative at this site on this footprint which shows that such an alternatives is likely feasible and should have been evaluated. *See* Renewable Energy Projects Under Review in 2011[3] at 3-4 (Los Angeles County Projects ranging from 6 MW to 245 MW); Map of California Renewable Energy Projects Under Review in 2011.[4] The PMPD also

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[2] This document is available on the CAISO website and is officially noticeable. 20 C.C.R. § 1213. The Center requests that official notice of it is taken in this proceeding.

[3] These documents are available on the Commission website and track renewable energy projects. The list is available at http://www.energy.ca.gov/33by2020/documents/renewable_projects/Tracking_Report_for_Renewable_Projects.pdf and the map is available at http://www.energy.ca.gov/33by2020/documents/renewable_projects/2011_Renewable_Projects_ver_P.pdf. These documents are officially noticeable and the Commission must be presumed to know their content. 20 C.C.R. § 1213. The Center requests that official notice of these documents and their contents is taken in this proceeding.

[4] *See also* maps of approved and planned renewable energy projects in this area of LA County available from the County at http://planning.lacounty.gov/assets/upl/data/energy_list-map.pdf

rejects an all-solar project because "it would not be able to meet the electricity needs for Palmdale in the evening hours." PMPD at 3-14. Given that no analysis of need was ever made (as acknowledge in the PMPD at 3-19), the alleged "need" for additional energy in Palmdale at night is completely unsupported in the record and cannot be properly used as a basis for rejecting a reasonable alternative. Thus, the PMPD provides little more than a circular argument based on an ungrounded assumption.

In attempting to rationalize the failure to analyze an alternative of rooftop solar, the PMPD relies on staff's limited discussion of solar rooftops "replacing the proposed solar thermal component" which was dismissed because "it would not meet the objective of integrating the solar component to increase project efficiency." PMPD at 3-14. As CBD previously noted the solar component of this project is largely being built to support the gas-fired power plant—that is not a proper "objective" of the project as a whole. Staff wholly failed to look at the alternative of increased solar rooftops to replace the whole of the project and that reasonable alternatives should have been considered.

The more general statements that because the Staff assumes that the project's impacts can be mitigated to below a level of significance, a robust alternatives analysis was not needed is bootstrapping the Staff's own failure to address the proposed project's significant impacts, such as PM 2.5, into an inadequate alternatives analysis. PMPD at 3-14 to 3-15. The PMPD also misreads CEQA case law – even if Staff's analysis concludes that the project will have a less than significant effect, the analysis may not summarily exclude alternatives that avoid or reduce the project's on-site operational impacts, such the all-solar alternative.

Air Quality:

***PM 2.5 Emissions Are Significant*:**

The PMPD fails to address critical issues regarding the significant PM 2.5 emissions from the proposed project and the comments provided by the Center on these questions. As the Center has shown, the PM 2.5 analysis in the FSA is inadequate because, among other things, it completely fails to address the increments issue. The EPA's Final Rule on the *Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM2.5)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)*

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and from Friends of Antelope Valley Open Space at http://avopenspace.org/html/w__av_map.shtml .

was issued in October, 2010. *See* 75 Fed. Reg. 64864-64907 (October 20, 2010). The EPA Final Rule was published before the FSA was issued in December 2010, but Staff failed to address this important issue (it is not even mentioned in the FSA).

Under the PM 2.5 final rule, the two "screening tools" which include the Significant Level of Impacts (SIL) and the Significant Monitoring Concentrations (SMC) for PM 2.5 went into effect as of December 20, 2010. *See* 75 Fed. Reg. 64898, 64900. EPA is already using these screening tools to review PSD applications.[5] The SIL provides significance thresholds above which new sources must comply with increment analysis under the PSD program.

Significant impact levels:

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Pollutant	Averaging time	Class I area	Class II area	Class III area
PM2.5	Annual	0.06 μg/m3	0.3 μg/m3	0.3 μg/m3
	24-hour	0.07 μg/m3	1.2 μg/m3	1.2 μg/m3

50 CFR §52.21(k)(2). The proposed project will emit PM2.5 at levels far above these SIL. *See* Exh. 307 at 20 (revised PM 2.5 24-hour figures).[6] These thresholds indicate that the PM2.5 emissions from the proposed project are significant and should have been analyzed as such by staff in order to comply with CEQA. The PMPD fails to adequately address the significance threshold issue and follows staff's lead in assuming that so long as PM 2.5 emissions do not cause a violation in and of themselves they are not significant. 6.2-14. As explained above, and in early submissions[7], the PM 2.5 emissions from the proposed project are significant but the PMPD fails to adequately respond to these issues and the Commission's failure to adequately address this significant impact is a violation of CEQA.

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[5] The new maximum allowable increase standards that *limit* the increment of PM2.5 that new sources can emit do not go into effect until October 20, 2011. 75 Fed. Reg. 64898; 50 CFR §52.21(c).

[6] The SMC, which was set at 4 μg/m3 for the 24-hour average, is also exceeded by the proposed project.

[7] The Center raised this and other related inadequacies with the CEQA compliance in briefing and in our response to the letter from the City of Lancaster. CBD Opening Br. at 5 (discussing failure to look at significance thresholds for emissions where the pollutant does not cause a violation or "bust the cap" and challenging the lack of any analysis in the FSA of whether or how the proposed project would or could comply with the new PSD regulations for GHGs, other contaminants, and PM2.5), 6 (discussion of PM2.5 impacts); CBD Reply Br. at 1-2 (explaining that CEQA requires analysis of impacts even if those impacts are subject to permitting by another agency and do not create a violation of an established regulatory standard). In addition, this issue was raised in public comments at the hearing. *See* TR at 189-191.

Further, the PMPD at 6.2-14 wrongly assumes that *none* of the provisions of the new regulation applies to the proposed project if the PSD permit is processed prior to October 20, 2011; as shown above the SIL and SMC for PM 2.5 already apply. Moreover, the application for the PSD permit has not yet been determined to be adequate or deemed adequate by EPA (pers. comm. July 7, 2011, Amy Parsley, EPA Region 9), therefore it is not yet certain whether or not the additional PM 2.5 increments rule will apply to the application or not.

The Commission unlawfully failed to provide any evaluation of the significant PM 2.5 emissions of the proposed project. That these impacts are significant is clearly shown by the fact that the emissions are far above the significance threshold in the PSD regulations. The PMPD does not cite to any other significance threshold to support staff's contrary determination which equates causing violations of air quality standards with significance. *See* PMPD at 6.2-14. As CBD explained, "busting the cap" on a serious air pollutant is a not a proper threshold of significance for CEQA analysis. CBD Opening Br. at 6. (*See Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal. App. 4th 98, 113-14 [application of significance threshold based on project's consistency with regulatory standard cannot supersede CEQA's fair argument standard].) The failure to recognize the significance of PM 2.5 emissions undermined other analyses as well including the alternatives analysis. *See* PMPD at 3-14 to 15, 3-17 (noting that because Staff assumed not significant impacts from the proposed project they did not undertake detailed alternatives analysis related to those impacts).

The Commission cannot ignore evaluation of any significant project simply because there will be additional proceedings for permits before other state or federal agencies in the future, in this case the PSD permit process by EPA. It does not matter for purposes of CEQA that any other public agency may need to render some later decision with regard to the specific project approvals. *See Fullerton Joint Union High Sch. Dist. v. State Bd. of Educ.* (1982) 32 Cal. 3d 779, 795. The Commission cannot defer evaluation of environmental impacts until after project approval or skirt the required procedure for public review and agency scrutiny of potential impacts. *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 307-09.

PM 10 Off-Sets:

Interpollutant Trading: The Center appreciates and supports that the PMPD has dropped the provision for interpollutant trading from Condition of Certification AQ-SC19. PMPD at 6.2-12 to 13. Given the complete lack of analysis of the potential impacts of this proffered mitigation

measure, dropping the condition is appropriate.

Road Paving: Unfortunately, the PMPD's discussion of road paving remains inadequate. The PMPD states that "[w]e do not find that road paving will increase PM2.5." PMPD at 6.2-13. The PMPD reaches this conclusion, however, only by ignoring the Center's previous testimony that the construction *and* operational effects of road paving will likely increase PM 2.5 emissions. Ex. 402 at 6-7; Fox comment, Ex. 400 at 10-12. The PMPD dodges this issue by arguing that the Center's expert testimony was not based on review of the "specific roads proposed to be paved for the PHPP." PMPD at 6.2-13. The PMPD offers no evidence or rational explanation, however, as to why the road segments at issue should be so different from other roads that they avoid the increase in PM 2.5 emissions associated with road paving in general. In effect, the PMPD seeks to assert a site-specific exception to the uncontroverted testimony offered by the Center, but provides no evidence that different rules should apply in this situation.

Moreover, by failing to require a detailed analysis of the PM 2.5 emissions associated with road paving, the PMPD continues to ignore that the appellate court decision requiring environmental review for road paving offsets for particulate emissions. *California Unions for Reliable Energy et al. v. Mojave Desert Air Quality Management District* (2009) 178 Cal.App.4th 1225.

GHG Impacts:

The PMPD improperly finds that the GHG emissions from operations "should be assessed not by treating the plant as a stand alone facility operating in a vacuum, but rather in the context of the operation of the entire electricity system of which the plant is an integrated part" and that the record provides sufficient analysis to show that the proposed project will reduce GHG emissions. PMPD at 6.1-2. The PMPD, relying on the three-part test in the Avenal decision is consistent with CEQA guidelines sections 15064.4(b)(1) & (3), states that to meet the requirements gas power plants must:

1. Not increase the overall system heat rate for natural gas plants;
2. Not interfere with generation from existing renewable facilities nor with the integration of new renewable generation; and
3. Reduce system-wide GHG emissions and support the goals and policies of AB 32.2.

(PMPD a 6.1-6). *Id.* These general standards articulated in the Avenal decision are insufficient to provide an adequate CEQA analysis of greenhouse gas emissions. Based on these factors, the PMPD improperly uses a qualitative quasi-programmatic analysis of the electric system when it should have been conducting a site-specific analysis. These factors would allow the Commission to analyze the greenhouse gas emissions from all new natural gas power plants with similar characteristics based only on the most generalized characteristics of the plants. These standards largely ignore the actual GHG emissions of the proposed project and appear intended to avoid the critical significance threshold issue raised by the Center. However, CEQA requires that the significant impacts, feasible mitigations, and alternatives of this specific project be analyzed and any override regarding significant impacts be considered after that analysis is made. (*See, e.g., CBE v. SCAQMD*, 48 Cal.4th at 325 [an agency must follow "the dictates of CEQA and realistically analyz[e] [a] project's effects. After proper analysis, the agency might decide to disapprove the project because of its immitigable adverse effects or to approve it with a finding of overriding considerations"].)

The PMPD adopts staffs unsupportable finding that GHG emissions are not significant and failure to utilize a meaningful significance threshold. The PMPD argues that there is no need for the CEQA analysis to determine the significance threshold that should be used for the GHG emitted by operations, because the carbon intensity of the proposed project operations is less than the carbon intensity of the electric system, and this will result in a net reduction of greenhouse gases. (PMPD at 6.1-10 to 11.) However, the PMPD provides no support in CEQA for the proposition that Staff can solely rely on an increase in efficiency to make a finding that substantial new emissions of greenhouse gases are not a significant impact. This type of reasoning was expressly rejected in a federal case brought by the Center that found that the adoption of new national fuel efficiency standards that increased these efficiency standards still requires an analysis of the total emissions of greenhouse gases from the rulemaking even though the efficiency of the vehicle fleets increased. *Center for Biological Diversity v. National Highway Traffic Safety Admin.* (9th Cir. 2008) 538 F.3d 1172, 1216-17.[8] Moreover, the Commission's failure to look at a significance threshold cannot allow it to sidestep the heart of

[8] That case was discussing these issues in the context of the National Environmental Policy Act ("NEPA"), and California Courts have looked to NEPA as "persuasive" authority to the interpretation of CEQA. *See, e.g., No Oil, Inc. v. City of Los Angeles* [1974] 13 Cal.3d 68, 86, fn. 21.

CEQA—the alternatives analysis. The GHG emissions from this proposed project are significant and should have been analyzed as such, including in the alternatives analysis.

Moreover, there is no analysis of how the project will affect the energy system over the lifetime of the project. CEQA requires analysis of impacts over the life of the project, not one particular instant. (*Laurel Heights Improvement Ass'n of S.F. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 396-99 [reasonably foreseeable future activity must be described and analyzed in EIR].) Permitting this plant creates additional fossil fuel infrastructure for decades. "Direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short-term and longterm effects." (CEQA Guidelines § 15126.2(a).) As CBD has pointed out, the Staff (and now the PMPD following its lead) also assumed without analysis that the proposed project would operate at its highest capacity and maximum efficiency in comparing it to other plants on the current grid (See Center Opening Br. at 12); there is no analysis of the comparison if the proposed project does not operate at that efficiency.

This approach is contrary to the 2009 IEPR which states: "Emissions from natural gas generation account for a large portion of in-state GHG emissions from the electricity sector, so it is essential for the Energy Commission to consider GHG impacts of natural gas plants in its power plant licensing process." (2009 IEPR at 47-49.) Relying on the general Avenal criteria that justify the permitting of a whole class of natural gas plants does not constitute the site specific analysis required by CEQA.

REQUEST FOR OFFICIAL NOTICE

The Siting Regulations at 20 C.C.R. § 1213, Official Notice, state:

> During a proceeding the commission may take official notice of any generally accepted matter within the commission's field of competence, and of any fact which may be judicially noticed by the courts of this state. Parties to a proceeding shall be informed of the matters to be noticed, and those matters shall be noted in the record, or attached thereto. Any party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

Under California law judicial notice may be taken of documents that are relevant (Evid. Code § 200) and:

> (c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

. . .

(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

Evid. Code §452 (Matters which may be judicially noticed).

Accordingly, the Center requests that the Committee take official notice of the following documents pursuant to 20 C.C.R. § 1213:

- CAISO Integration of Renewable Resources – 20% RPS, August 31, 2010. This document is available at http://www.caiso.com/2804/2804d036401f0.pdf.
- CAISO Summary of Preliminary Results of 33% Renewable Integration Study – 2010 CPUC LTPP Docket No. R.10-05-006 (May 20, 2011). This document is available at http://www.cpuc.ca.gov/NR/rdonlyres/B32724DF-12B4-4518-86FC-43AF1FA11E9D/0/LTPP_33pct_initial_results_051011_update.pptx.
- Renewable Energy Projects Under Review in 2011. The list is available at http://www.energy.ca.gov/33by2020/documents/renewable_projects/Tracking_Report_for_Renewable_Projects.pdf.
- Map of California Renewable Energy Projects Under Review in 2011. the map is available at http://www.energy.ca.gov/33by2020/documents/renewable_projects/2011_Renewable_Projects_ver_P.pdf.

The first 2 documents were produced by the California Independent System Operator (CAISO) and are available on the agency website. The last 2 documents are available on the Commission's website and were created by the Renewable Energy Action Team (REAT) of which the Commission is a member. These documents are all relevant to the issues currently before the Commission as detailed above.

The each of these documents may be officially noticed as documents prepared by state agencies and as facts—the existence of the reports, lists and maps and the facts stated therein—which are not reasonably subject to dispute and are capable of immediate and accurate determination. (See *Carleton v. Tortosa* (1993) 14 Cal App 4th 745, 739 n.1.) In addition or alternatively, these documents could be officially noticed as official acts. (Cal. Ev. Code § 452(c).) "Official acts include records, reports and orders of administrative agencies." (*Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518 [citing *Hogen v. Valley Hospital* (1983) 147 Cal. App.

3d 119, 125; *McGlothlen v. Department of Motor Vehicles* (1977) 71 Cal. App. 3d 1005, 1015; *Agostini v. Strycula* (1965) 231 Cal. App. 2d 804, 806.])

Therefore, the Center requests that the Committee that official notice of these documents in this proceeding.

REQUEST TO CONTINUE THE COMMISSION HEARING AND REOPEN THE EVIDENTIARY RECORD

The Center requests that the Commission Hearing on this matter now scheduled for July 27, 2011, be continued and that the evidentiary record be reopened to consider, at minimum: the factual basis for the claim of "need" which the PMPD relies on; the impact of the significant PM 2.5 emissions from the proposed project; and alternatives.

Dated: July 11, 2011

Respectfully submitted,

/s/ Lisa T. Belenky
Lisa T. Belenky, Senior Attorney
John Buse, Senior Attorney
Center for Biological Diversity
351 California St., Suite 600
San Francisco, CA 94104
Direct: 415-632-5307
Fax: 415-436-9683
lbelenky@biologicaldiversity.org
jbuse@biologicaldiversity.org

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 3/22/2011)

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

***Maifiny Vang**
CA Dept. of Water Resources
State Water Project Power & Risk Office
3310 El Camino Avenue, RM. LL90
Sacramento, CA 95821
E-mail Service Preferred
mvang@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

*indicates change

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
E-mail Service Preferred
dcapjane@aol.com

ENERGY COMMISSION

KAREN DOUGLAS
Commissioner and Presiding Member
KLdougla@energy.state.ca.us

JAMES D. BOYD
Vice Chair and Associate Member
jboyd@energy.state.ca.us

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

Galen Lemei
Advisor to Commissioner Douglas
E-Mail Service preferred
glemei@energy.state.ca.us

Tim Olson
Advisor to Commissioner Boyd
E-mail Service Preferred
tolson@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, Lisa T. Belenky, declare that on, July 11, 2011, I served and filed copies of the attached *INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S COMMENTS ON PMPD; REQUEST FOR OFFICIAL NOTICE; REQUEST TO CONTINUE THE COMMISSION HEARING AND REOPEN THE EVIDENTIARY RECORD* dated July 11, 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:

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

_____ by personal delivery;

___x__ 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:

__x_ 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/ Lisa T. Belenky