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VIA MAIL AND ELECTRONIC MAIL TO docket@energy.state.ca.us

California Energy Commission
c/o Energy Commission Docket Unit
1516 Ninth Street, MS-4
Sacramento, CA 95814

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

Dear Honorable Members of the Committee Conference of the California Energy Commission,

On behalf of the City of Lancaster ("Lancaster") and its citizens, I hereby submit the following comments upon the Presiding Member's Proposed Decision ("Proposed Decision") with respect to the City of Palmdale's Hybrid Power Plant Project ("Project"), Docket No. 08-AFC-9. As this Committee knows, Lancaster has previously expressed several concerns regarding the Project, including: (i) the Project's creation of unsafe air quality conditions; (ii) the Project's unnecessary and unfair preclusion of future industrial uses in the Antelope Valley ("Valley"); and (iii) the visual blight which would result from the Project. After reviewing the Proposed Decision, I am sorry to say that none of these concerns have been adequately addressed. Therefore, I respectfully request that the California Energy Commission ("Commission") delay or deny certification of the Project until these issues are substantively addressed, as explained below.

I. The Project Would Create Unsafe Air Conditions.

In various letters to the Commission, Lancaster officials raised concerns regarding the negative impact the Project would have on the air quality in the Valley. Though the evidence in the Proposed Decision overwhelmingly demonstrates that the Project will result in a *significant* and unhealthy increase in *several* federal and state regulated gases and emissions, I would like to focus here on only one such gas: Nitrogen Dioxide. The California 1-Hour standard for Nitrogen Dioxide is 339 micrograms per cubic meter ("ug/m³"). The current hourly ambient background level of Nitrogen Dioxide in the Valley is 139.2 ug/m³. (Proposed Decision p. 6.2-9 [Air Quality Table 4].) If both of the Project's turbines are operating during the commissioning of the Project, the hourly ambient air quality of Nitrogen Dioxide would exceed 470 ug/m³, well in excess of the California limit. (*Id.*) In an attempt to mitigate this impact, the Proposed Decision recommends Condition of Certification AQ-SC20 which would allegedly prevent the "simultaneous commissioning of the two combustion turbines at emission levels that would cause a violation of the 1-hour [Nitrogen Dioxide] standard." (Proposed Decision p. 6.2-8.) However, Condition of Certification AQ-SC20 does not actually accomplish this stated purpose. Instead, Condition of Certification AQ-SC20 merely

requires that the Project owner “minimize emissions associated with simultaneous commissioning of the combustion turbines and not exceed NOx emissions of 250 pounds per hour.” (Proposed Decision p. 6.2-45.) By limiting the Project’s NOx emissions to 250 pounds per hour, without an explanation as to how this would affect the density (mg/u3) of Nitrogen Dioxide on and around the Project, *there is no guarantee that the emissions during commissioning will not exceed California’s 1-hour Nitrogen Dioxide standard.* The mitigation measure recommended thus fails to alleviate the very concern it is designed to address.

This problem is further exacerbated by the fact that the commissioning of just one of the Project’s turbines would bring the Valley’s air quality up to 99.8% of the limitation imposed by California’s 1-hour Nitrogen Dioxide standard. (Proposed Decision p. 6.2-9 [Air Quality Table 4].) If the emissions caused by the commissioning of one turbine almost exceeds the California limit just by itself, it would be impossible for the emissions caused by the simultaneous commissioning of the second turbine to not exceed the hourly California limit of Nitrogen Dioxide. Because Condition of Certification AQ-SC20 does not prevent the commissioning of the Project from exceeding California’s 1-hour Nitrogen Dioxide standard, the Commission should require that another mitigation measure be adopted so as to protect the air quality of the Valley.

Moreover, Condition of Certification AQ-SC6 is insufficient to ensure that California’s 1-hour Nitrogen Dioxide standard is not exceeded during the construction of the Project. As stated in the Proposed Decision, the construction of the Project would, by itself, result in the emission of 296.5 ug/m3 of nitrogen dioxide, constituting 87% of California’s 1-hour Nitrogen Dioxide standard. (P. 6.2-5 [Air Quality Table 3].) However, that number is reliant upon Condition of Certification AQ-SC6 which allegedly mandates that construction only occur during hours of extreme daylight. The foundation for this mitigation measure is the finding that Nitrogen Dioxide levels are significantly lower during maximum daylight hours (“Daylight Finding”). (Proposed Decision p. 6.2-6.) Indeed, with respect to Condition of Certification AQ-SC6, the Proposed Decision states that “when sunlight is present (*outside of the hours close to sunrise and sunset*), [Nitrogen Dioxide] impacts are reduced to levels below the applicable standards.” (*Id.* [emphasis added]) It thus makes sense to limit construction to between those hours close to sunrise and sunset. Accordingly, pursuant to AQ-SC6, between November 5 and February 15, construction may only occur between one hour after sunrise and one hour before sunset. (Proposed Decision p. 6.2-40.) Given the Daylight Finding, this is reasonable because it guarantees that construction will only take place during hours of maximum daylight. (Proposed Decision p. 6.2-6.) However, between February 16 and November 4, AQ-SC6 permits construction on the Project to occur beyond the parameters of the Daylight Finding, up to and including, half an hour before sunset. (Proposed Decision p. 6.2-40.) While this may not appear significant, there is no evidence in the Proposed Decision as to the impact this additional one-half hour of construction will have on Nitrogen Dioxide levels in light of the fact that “the hours close to sunrise and sunset” do not receive the sunlight necessary to reduce Nitrogen Dioxide levels. Indeed, the extended hours of construction between February 16 and November 4 are in direct contravention of the Daylight Finding. The Commission should revise AQ-SC6 to require that it be uniform with respect to its limitations on the times during which construction may occur in order to ensure that such construction only take place during hours of extreme sunlight (i.e. between one hour after sunrise and one hour before sunset). Absent such a uniform standard, and without more evidence in

the Proposed Decision as to the impact this proposed additional one-half hour of construction would have on Nitrogen Dioxide levels, Condition of Certification AQ-SC6 is deficient and cannot act to mitigate the otherwise excessive levels of Nitrogen Dioxide.

A final concern that Lancaster has with the Proposed Decision's discussion of Nitrogen Dioxide levels is its inconsistent application of the ambient background levels of Nitrogen Dioxide. In Air Quality Table 4, the Proposed Decision acknowledges that hourly ambient background level of Nitrogen Dioxide in the Valley is 139.2 ug/m³. (P. 6.2-9.) However, in both Air Quality Table 3 and Air Quality Table 5, the Proposed Decision fails to identify any hourly ambient background levels of Nitrogen Dioxide. (Pp. 6.2-5; 6.2-10.) If the hourly ambient background level of 139.2 ug/m³ is included in Air Quality Table 3 and Air Quality Table 5, as it should be, it is clear that *emissions from the Project both during construction and normal operations would exceed California's 1-hour Nitrogen Dioxide standard*, greatly damaging the air quality in the Valley. Until additional mitigation measures are adopted to ensure compliance with California's 1-hour Nitrogen Dioxide standard throughout construction, commission and operation of the Project, Lancaster respectfully requests that the Commission delay or deny certification.

II. The Project Precludes Future Industrial Use in the Antelope Valley.

The second concern that Lancaster has with the Proposed Decision is its failure to address the Project's overly restrictive impact on future industrial uses in the Valley. The National standard for small particulate matter ("PM 2.5") is 35 ug/m³ in a 24-hour period, and the 24-hour ambient background of PM 2.5 for the Valley is 16.3 ug/m³. (Proposed Decision p. 6.2-10.) However, after the Project is completed, the PM 2.5 for the Valley will be 27.9 ug/m³, which total represents 80% of the National limiting standard. (*Id.*) Therefore, the Project will be solely responsible for increasing the 24-hour PM 2.5 levels in the Valley by more than 70%, leaving less than 8 ug/m³ of 24-hour PM 2.5 available for future growth. As this Committee is aware, the Valley's economic and social backbone is the aerospace industry, which local industry includes bases belonging to the United States Air Force and factories operated by Lockheed Martin, Northrop Grumman and Boeing. Collectively, this industry employs a large portion of the Valley's population. Due to the manufacturing nature of this industry, it is incredibly reliant on future industrial growth, which growth will most likely require the emission of PM 2.5. The future of the Valley is thus dependent upon the aerospace industry's ability to increase its PM 2.5 usage going forward. However, if the Project is permitted to use the majority of the Valley's remaining 2.5 PM allotment, it would severely limit the future growth of the aerospace industry, and permanently damage the long-term economic viability of the Valley.

Pursuant to Title 14, Section 15144 of the California Code of Regulations, the Committee Staff has an obligation to "find out and disclose" all foreseeable sources of emissions in the Valley. The Proposed Decision purports to comply with this requirement by stating that "the record contains no evidence of what [other] industrial uses might be outside of those identified in the cumulative analyses submitted by [Commission] Staff and [the City of Palmdale]" and "that the Air Quality section of [the] [Proposed] Decision conservatively modeled emissions for new and reasonably foreseeable sources of emissions in the project area and clearly identified what those sources might

be.” (Proposed Decision p. 3-20.) This is simply not true. Indeed, Lancaster and other parties raised this issue several times prior to the release of the Proposed Decision. (*See* Proposed Decision pp. 3-19 through 3-20; 6.2-32 through 6.2-33.) However, despite the requirement of Title 14, Section 15144 of the California Code of Regulations and the comments from Lancaster and other parties, the Proposed Decision is shockingly devoid of foreseeable future sources of emissions in the Valley. While the Commission Staff is not required to speculate beyond the foreseeable sources, the complete failure to identify *any* future foreseeable sources of PM 2.5 emissions is indefensible. Until such time that the Proposed Decision includes a substantive discussion of foreseeable future sources of PM 2.5 emissions, such as expansion of the existing aerospace and other light industrial uses, all of which are necessary for the Valley’s economic survival, Lancaster respectfully requests that the Commission delay or deny certification of the Project.

III. Visual Blight Results from the Project.

Lancaster’s final concern with the Proposed Decision is its failure to address the visual blight which would result from the Project. As the Proposed Decision correctly notes, the California Environmental Quality Act (“CEQA”) requires an examination of the Project’s visual impacts. (Proposed Decision p. 8.5-1; Cal. Code Regs., tit. 14, § 15382, Appendix G.) In order to assess the Project’s visual impacts, the Proposed Decision utilized four key observation points (“KOPs”). (Proposed Decision p. 8.5-1.) Despite the fact that “scenic views of the San Gabriel Mountains were visible from” three of the four KOPs, the Proposed Decision concluded that “the visual impacts [from the Project] were determined to be less than significant.” (Proposed Decision p. 8.5-1.)

The Proposed Decision’s description of the Project includes: (i) “two 145-foot tall HRSG stacks, one 59-foot tall cooling tower (ten cell), two 70-foot tall inlet air filters, and a 70-foot tall STG enclosure” (Proposed Decision p. 8.5-2); (ii) a 50-acre parcel to be used for parking and construction (Proposed Decision p. 8.5-3); (iii) a 35.6 mile transmission line (*Id.*); and (iv) regular water vapor plumes in excess of 621 feet tall (Proposed Decision p. 8.5-18). Given CEQA’s requirement that the Commission preserve the visual aspects of the environment, the determination that the significant visual blight identified above will have a less than significant visual impact upon the “scenic views of the San Gabriel Mountains” is patently false. The Proposed Decision’s sole mitigation measure to combat this visual blight is to require that the applicant “color and finish the surfaces of all non-mirror project structures and buildings.” (Proposed Decision p. 8.5-27.) This measure is patently insufficient to mitigate the significant visual impacts caused by the Project because “color[ing] and finish[ing]” do nothing to address (i) the 622 foot high water plumes which have an “adverse effect on visual resources” (Proposed Decision p. 8.5-16) or (ii) the complete obstruction of the “scenic views of the San Gabriel Mountains” from three of the four KOPs. Unless and until the visual blight identified in the Proposed Decision is substantively addressed, and adequate mitigation measures adopted in the Proposed Decision to offset the impact which the Project will have on the Valley’s appearance, Lancaster respectfully requests that the Commission delay or deny the Project’s certification.

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July 11, 2011
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Lancaster sincerely appreciates your favorable consideration of this request and the important issues discussed herein. Please do not hesitate to contact me if you should have any questions or require any additional information.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH

A handwritten signature in black ink, appearing to read "David R. McEwen". The signature is fluid and cursive, with a large initial "D" and "M".

David R. McEwen



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

Docket No. 08-AFC-9

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(Revised 3/22/2011)

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DECLARATION OF SERVICE

I, Karen Hardy declare that on, July 11, 2011 I served and filed copies of the attached City of Lancaster's Comments on Presiding Members Proposed Decision-Docket No. 08-AFC-9

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
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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/ Karen Hardy