

# DOCKET

08-AFC-9

DATE	MAY 18 2011
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## 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

### INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S RESPONSE TO LETTER FROM CITY OF LANCASTER DATED MAY 2, 2011

May 18, 2011

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The Center for Biological Diversity supports the request by the City of Lancaster for a “temporary suspension” of the CEC’s processing of the application for the Palmdale project because the Commission has failed to adequately address many significant impacts to the environment from the proposed project as required under CEQA. As the City of Lancaster notes in the May 2, 2011 letter to the Commission (and the attached April 21 letter), among the impacts that have not been fully identified and analyzed are the impacts of the proposed project’s PM2.5 emissions on future growth in the area because the proposed project alone would “use up” nearly 80% all of the remaining PM 2.5 increment.

The PM2.5 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)* 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).

Intervenor CBD raised this and other related inadequacies with the CEQA compliance in briefing. 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. TR at 189-191.<sup>1</sup>

Under the PM2.5 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

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<sup>1</sup> Intervenor DCAP also questioned whether staff’s alternatives analysis had taken into account the economic benefits to the Antelope Valley as a whole (for example, the impact of “using up the cap” on future development in the area) at the hearing. TR at 331-338, 346. Unfortunately, the limitations of the Commission’s practice of narrowing testimony to “silos” on single topics even where the issues cross “sections” of the FSA is quite evident in this transcript. As a result, in this case a full airing of these critical issues that bridge air quality, socioeconomic impacts, cumulative impacts, and alternatives was unnecessarily and unfairly truncated.

as of December 20, 2010. *See* 75 Fed. Reg. 64898, 64900. EPA is already using these screening tools to review PSD applications.<sup>2</sup> The SIL provides significance thresholds above which new sources must comply with increment analysis under the PSD program.

Significant impact levels:

Pollutant	Averaging time	Class I area	Class II area	Class III area
PM2.5	Annual	0.06 µg/m <sup>3</sup>	0.3 µg/m <sup>3</sup>	0.3 µg/m <sup>3</sup>
	24-hour	0.07 µg/m <sup>3</sup>	1.2 µg/m <sup>3</sup>	1.2 µg/m <sup>3</sup>

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 PM2.5 24-hour figures).<sup>3</sup> 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.

In light of the above and the briefing and other documents submitted in this matter to date, Intervenor CBD supports the City of Lancaster's request that the application process be temporarily suspended, and no PMPD should be issued, until additional CEQA analysis is provided (and circulated with public notice and an opportunity for public comment) on the issues raised in the City of Lancaster's letter as well as other issues where the identification and analysis of impacts is inadequate to comply with CEQA (including those raised by Intervenor CBD in briefing).

Dated: May 18, 2011

Respectfully submitted,

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<sup>2</sup> 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).

<sup>3</sup> The SMC, which was set at 4 µg/m<sup>3</sup> for the 24-hour average, is also exceeded by the proposed project.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
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**APPLICATION FOR CERTIFICATION**  
**For the *PALMDALE HYBRID***  
***POWER PROJECT***

**Docket No. 08-AFC-9**

**PROOF OF SERVICE**

*(Revised 3/22/2011)*

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### DECLARATION OF SERVICE

I, Lisa T. Belenky, declare that on, May 19, 2011, I served and filed copies of the attached *INTERVENOR CENTER FOR BIOLOGICAL DIVERSITY'S RESPONSE TO LETTER FROM CITY OF LANCASTER DATED MAY 2, 2011* dated May 18, 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."

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##### **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**

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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/ Lisa T. Belenky