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09-AFC-3

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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

Application for Certification for the
MARIPOSA ENERGY PROJECT (MEP)

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Docket No. 09-AFC-3

**APPLICANT'S RESPONSE
TO THE MOTION
OF CALPILOTS
TO REVISE THE COMMITTEE SCHEDULE**

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December 20, 2010

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STATE OF CALIFORNIA

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**APPLICANT’S RESPONSE
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OF CALPILOTS
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Mariposa Energy Project, LLC (“Applicant”) submits this Response to the Motion of CalPilots to Revise the Committee Schedule dated October 29, 2010 (“Motion”).

For the second time in less than a month CalPilots has filed a Motion to delay the proceeding. On November 22, 2010 CalPilots, Robert Sarvey and Rajesh Dighe filed a joint motion to delay the proceeding alleging that the time period for filing their testimony was burdensome. The Committee issued an order on December 8, 2010 denying the joint motion.

On December 17, 2010 CalPilots has again moved to delay the proceeding and to extend the deadline for intervenors to file their opening testimony. For the very same reasons set forth in the Committee’s December 8, 2010 Order, CalPilots’ motion should be denied.

The Application for Certification of the Mariposa Energy Project was deemed data adequate on August 26, 2009. Carol Ford and Andrew Wilson, representing CalPilots attended and spoke at the first informational hearing and site visit on October 1, 2009. During the course

of the past year, the Applicant and Staff have engaged in an extensive dialog with CalPilots, including a June 30, 2010 Staff Workshop on aviation and air quality issues, as well as numerous and lengthy discussions before the Contra Costa County Airport Land Use Commission. Therefore, CalPilots has had an extraordinary period of time (sixteen months from the filing of the Application) in which to prepare its opening testimony.

The justification offered by CalPilots in its second motion for delay is that the Supplemental Staff Assessment (“SSA”) does not show “tracking changes” from the Staff Assessment (“SA”). CalPilots’ motion alleges that it will take an “enormous amount of time” to read the SSA “line by line” and compare it to the SA. However, the truth is that software is readily available that will allow any party to quickly and easily compare the two documents. As a courtesy to CalPilots, we have already provided a document comparison of the Traffic and Transportation Section of the SA and SSA and we have offered to provide a document comparison of any other section of interest to the Intervenors. Moreover, today Staff provided all parties with a red-lined version of the SSA.

In summary, CalPilots has been provided more than a year in which to prepare its direct testimony, more than six weeks in which to review the SA and nearly two weeks in which to review the minor revisions in the SSA relating to aviation. As the Committee stated in its December 8, 2010 Order, “The current schedule provides two weeks from the date of publication of the SSA to file opening testimony, which is ample time. Typical Energy Commission Scheduling Orders allow no more than two weeks for preparation of rebuttal, and frequently allow less time. Here, with the SSA anticipated to be available the week of December 13, 2010 and rebuttal testimony due January 12, 2011, the parties are given about 30 days to rebut the SSA and all other filed testimony.”

Therefore, CalPilots' second Motion, just like its first Motion, fails to state good cause for any delay in this proceeding. The Motion should be denied.

Dated: December 20, 2010

ELLISON, SCHNEIDER & HARRIS L.L.P.

By



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PROOF OF SERVICE

I, Eric Janssen, declare that on December 20, 2010, I served the attached APPLICANT'S
RESPONSE TO THE MOTION OF CALPILOTS TO REVISE THE COMMITTEE
SCHEDULE via electronic and U.S. mail to all parties on the attached service list.

I declare under the penalty of perjury that the foregoing is true and correct.



Eric Janssen

SERVICE LIST

09-AFC-3

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