

The Airport Defenders

P.O. Box 6868, San Carlos, California 94070-6868 - Tel. 800-319-5286

STATE OF CALIFORNIA  
State Energy Resources  
Conservation and Development Commission

<b>DOCKET</b>	
<b>09-AFC-3</b>	
DATE	OCT 14 2010
RECD.	OCT 14 2010

In the Matter of:                 )  
  )  
Mariposa Energy Project         )  
Mariposa Energy, LLC            )  
  )  
  )  
\_\_\_\_\_                                  )

DOCKET NUMBER: 09-AFC-3

**AMENDMENT TO PETITION TO INTERVENE  
DATED OCTOBER 4, 2010**

- 1.       Petitioner, CALPILOTS, hereby petitions to intervene in the above-captioned proceeding.
- 2.       Petitioner will be represented in this proceeding by Andy Wilson. His address is 31438 Greenbrier Lane, Hayward, California 94544, telephone number 510-303-9027, email address [andy\\_psi@sbcglobal.net](mailto:andy_psi@sbcglobal.net).
- 3.       Petitioner is not, a member of a group or organization already a party to this proceeding..
- 4.       Petitioner seeks to intervene in this proceeding because CALPILOTS is concerned for pilots, passengers and aircraft flying in or near power plant plumes. These plumes could affect the health and safety of the pilots and passengers as well as the controllability and potential structural damage to aircraft.
- 5.       Petitioner agrees that if a document is served upon him via email, an additional paper copy by mail is not necessary.

Date: October 14, 2010

Signature\_\_\_\_\_

**Proof of Service and Declaration of Service attached.**

Gary Cathy, Chief  
Department of Transportation  
Division of Aeronautics, MD #40  
P.O. Box 942874  
Sacramento, CA 94274-0001  
[Gary.cathy@dot.ca.gov](mailto:Gary.cathy@dot.ca.gov)

Re: Valley Bio-Energy, LLC 33-MW Biomass Energy Project  
Another MID Vote on Project Tuesday, October 12, 2010

Gentlemen:

The California Pilots Association (CALPILOTS) mission is to promote and preserve the state's airports. As a statewide organization, we work to maintain the state's airports in the best possible condition.

On June 8, 2010 the Modesto Irrigation District (MKD) issued a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) for the above referenced project. The hearing was held before the MID Board of Directors to consider the proposal to adopt the Mitigated Negative Declaration on August 31, 2010 at 9:00 am at the MID's Board Room. At that time the MID Board of Directors voted against the adoption of the Mitigated Negative Declaration.

**The California Pilots Association requests you do not accept the Valley Bio-Energy, LLC 33-MW Biomass Energy Project.** The EIR has not adequately addressed the impacts of placing this project near the Airport. CalPilots views the Biomass Energy Project as incompatible with airport planning guidelines as well as the Deeds and Restrictions that came with the Government allowance of the City of Modesto to operate and protect the airport from encroachment. It is not advisable to allow thermal power plants to be at a close proximity to the airport.

As stated in the 122 page Draft prepared for the Modesto Irrigation District concerning this project, page 72 states in part: "The proposed project site and facilities would be located in an area that is zoned for industrial use. The project site is located approximately 3,000 feet from the Modesto City-County Airport. The project site is located within the Modesto City-County Airport land use planning area (Stanislaus County ALUC, 2004). There are no other airports, public or private, within 2 miles of the project site."

The Federal Aviation Administration included in their Aeronautical Information Manual (AIM) dated August 26, that the AIM now includes Visible and Invisible

Thermal Plumes and how they affect aircraft, pilots and passengers and confirms there is an on-going FAA Plume Study. Click and copy website: <http://www.faa.gov/airtraffic/publicationsPage213>. Also, in the Aircraft Owners Pilots Association (AOPA) October magazine, page 17, is another article from the FAA regarding the hazards of visible and invisible thermal plumes.

The Modesto City-County Airport is a vital link in the National Transportation System. It is therefore eligible for Grants from the Federal Aviation Administration. When the City of Modesto last accepted a FAA Grant, the City signed Grant Assurances as part of the contract with the FAA.

The City thereby agreed to an obligation to keep Modesto City-County Airport free of hazards, and also to maintain compatible land use zoning. These are Grant Assurances numbers 20 and 21. Click and copy website: <http://www.faa.gov/airportsairtraffic/airports/aip/grantassurances/media/airportponsorassurances.pdf>

**20. Hazard Removal and Mitigation.** It (*the City, acting as the sponsor*) will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards **and by preventing the establishment or creation of future airport hazards.**

**21. Compatible Land Use.** It (*the City, acting as the sponsor*) will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility with respect to the airport, of the noise compatibility program measures upon which federal funds have been expended.

Additionally, as we have seen above in the FAA Grant Assurances, it is incumbent upon the City of Modesto to prevent the development of a project which will affect pilots flying in the vicinity of the Modesto City-County Airport.

It is also the duty of the City to provide for the health and safety of the residents as well as the pilots.

STATE OF CALIFORNIA  
State Energy Resources  
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In the Matter of: )  
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**DECLARATION OF ED ROSIAK**

My name is Ed Rosiak. I live at 10966 Linda Vista Drive, Cupertino, CA 95014. I am a member and the current president of the California Pilots Association (CALPILOTS). CALPILOTS is a 501(c)(3) organization, registered with the State of CA and is in good standing. The main mission of our association is the preserve and enhance safe and efficient public airports in California.

Our Board of Directors voted unanimously to authorize Andy Wilson to act on behalf of our association during the entire proceedings regarding the California Energy Commission Mariposa Energy Project, Mariposa Energy, LLC (09-AFC-3). Andy Wilson will have the authority to speak, represent, negotiate, sign documents, bind, or otherwise arbitrate on our behalf. Any and all acts carried out by Andy Wilson on our behalf shall have the same affect as acts of our own. In order to expedite written documents, we authorize Andy Wilson to use his home address 31438 Greenbrier Lane, Hayward, CA 94544 for the record in this matter.

This authorization is valid until further written notice from the California Pilots Association.

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

Executed at Cupertino on October 13, 2010.

  
\_\_\_\_\_  
Ed Rosiak, CALPILOTS, President

STATE OF CALIFORNIA  
State Energy Resources  
Conservation and Development Commission

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)  
Mariposa Energy Project )  
Mariposa Energy, LLC )  
\_\_\_\_\_ ) **DECLARATION OF SERVICE**

I, Charlene L. Fulton declare that on October 14, 2010, I served and filed copies of the attached **Amendment to Petition to Intervene Dated October 4, 2010**, accompanied by a copy of the most recent *Proof of Service* list (most recent version is located on the proceeding's web page) with the Docket Unit. The document has been sent to the Commission **AND** the applicant, as well as the other parties in this proceeding (as shown on the *Proof of Service* list), in the following manner:

**(Check all that Apply)**

**FOR SERVICE TO THE APPLICANT AND ALL OTHER PARTIES:**

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

by personal delivery or by depositing in the United States mail at Modesto, CA with first-class postage thereon fully prepaid and addressed as provided on the *Proof of Service* list above to those addresses **NOT** marked "email preferred."

**AND**

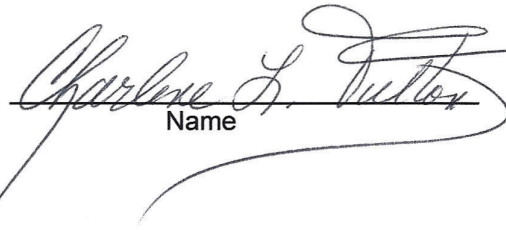
**FOR FILING WITH THE ENERGY COMMISSION:**

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 09-AFC-3  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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

  
Name

October 14, 2010  
Date