650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Tel: +1.714.540.1235 Fax: +1.714.755.8290
www.lw.com

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May 18, 2011

Mr. Ken Celli
Hearing Officer
California Energy Conservation and Development Commission
1516 Ninth Street
Sacramento, CA 95817

Re: Palmdale Hybrid Power Plant; Docket No. 08-AFC-9

Dear Mr. Celli:

As requested, we are writing on behalf of the City of Palmdale, Applicant for the Palmdale Hybrid Power Plant ("PHPP"), in response to the May 2, 2011 "Request for Suspension of Hearings" submitted by the City of Lancaster. The purported basis for the request is that Lancaster has "new concerns" related to perceived impacts on U.S. Air Force Plant 42 ("Plant 42") stemming from national ambient air quality standards promulgated by the U.S. Environmental Protection Agency ("EPA"). For the reasons set forth below, there is no legitimate basis for Lancaster's request.

First, the national ambient air quality standards to which Lancaster refers are not new issues. PHPP's compliance with both the federal 1-hour NO_2 standard and the federal 24-hour and annual $PM_{2.5}$ standards were addressed by both the Applicant and the CEC Staff, and the evidence in the record demonstrates that the PHPP complies with the standards. See, Exhibit 300, Final Staff Assessment at p.4.1-12 and Air Quality Tables 13 and 14 at 4.1-26 (discussing NO_2 standard and demonstrating that maximum modeled PHPP concentrations during normal operations and startup/shutdown are below standard); Exhibit 300, Final Staff Assessment at p. 4.1-13 and Exhibit 307, Joint Stipulation of Energy Commission Staff and Applicant Regarding Changes to the Final Staff Assessment at pp. 19-20 (discussing $PM_{2.5}$ standards and demonstrating that maximum modeled PHPP concentrations during normal operations and startup/shutdown are below standards). The NO_2 and $PM_{2.5}$ modeling analyses provided by PHPP have included the emissions from sources on Plant 42 on a cumulative basis, as directed by the Antelope Valley Air Quality Management District (AVAQMD). See, Exhibit 300, Final Staff Assessment at p. 4.1-35 and Exhibit 307, Joint Stipulation of Energy Commission Staff and Applicant Regarding Changes to the Final Staff Assessment at pp. 19-20 (discussing cumulative air quality analysis and demonstrating that cumulative emissions of NO_2 and $PM_{2.5}$ are below

standards). There is no evidence in the record suggesting that PHPP does not comply with these standards.

Second, as attainment pollutants, both NO_2 and $PM_{2.5}$ are being addressed in the Prevention of Significant Deterioration ("PSD") permitting process currently underway with EPA. The need for the PHPP to obtain a PSD permit from EPA addressing NO_2 and $PM_{2.5}$ emissions was also addressed in the CEC proceedings. See, Exhibit 300, Final Staff Assessment at p. 4.1-41 (discussing need for PSD permit from EPA) and Exhibit 300, Final Staff Assessment at p. 4.1-63 (setting forth proposed Condition of Certification AQT-3 which requires compliance with PSD permitting requirements). The Applicant has kept the Committee and the parties informed of the status of the PSD permitting process. See, Exhibit 51, PSD Permit Application and Exhibit 143, Supplemental Information for PSD Permit Application. The Applicant has continued working with EPA to address questions regarding the analyses provided to that agency, and is hopeful that EPA will issue the draft PSD permit in the near term. Certainly to the extent that EPA has concerns about the compliance of PHPP with current NAAQS or other PSD requirements, those concerns will need to be addressed prior to issuing the PSD permit.

Third, to the extent that Lancaster is suggesting that there is some evidence (beyond the flawed analysis and wild speculation contained in its May 2, 2011 request) of a socioeconomic impact on Plant 42 that the Applicant and CEC Staff failed to analyze, we have not seen it. As indicated in its request, Lancaster has been an active participant throughout the CEC proceedings and has had ample opportunity to present such evidence (if it existed) prior to the close of the evidentiary record. As just one example of the extent to which the Applicant has kept Lancaster (and other key stakeholders) apprised on the Project, in November 2008 a 30-minute presentation was given by Applicant's representative Inland Energy to the Lancaster City Council. At that time, Mayor Parris commented: "Personally, I think this in an incredible step in the right direction for the entire Antelope Valley. It would appear that the entire Antelope Valley will soon become the 21st century energy capital of the world. That's what we're looking forward to. . . . Be sure to convey our sentiments to Palmdale. We absolutely will be a cooperative partner in this venture." (November 12, 2008 Lancaster City Council Meeting http://www.cityoflancasterca.org/Index.aspx?page=570). There have been no substantive changes to the PHPP since that time – other than the fact that the CEC Staff have completed their exhaustive review confirming that the PHPP will not have significant impacts.

Not only has Lancaster been kept apprised of the review and permitting of PHPP since 2008 (and earlier), but the U.S. Air Force and Plant 42 have similarly been kept apprised of the PHPP, and their experts have carefully reviewed the potential impacts to their operations. See, Exhibit 114 (email from Colonel Cleaves dated 5/24/10 wherein he states that in consultation with experts from Wright Patterson AFB, they do not foresee any negative impacts to Air Force Plant 42 from the construction of PHPP). Lancaster has offered no evidence to the contrary or any indication of a concern from this installation. The City of Palmdale considers working cooperatively with Plant 42 as their top priority, as an extremely important partner in the economic viability of the entire Antelope Valley, and has consulted with the U.S. Air Force every step of the way during the PHPP siting and permitting processes. While we do not believe that a substantive rebuttal of the assertions contained in Lancaster's April 21, 2011 letter is

warranted or appropriate here, we stand ready to address any concerns that the U.S. Air Force or its Plant 42 contractors may have related to the PHPP.

The City of Palmdale appreciates the extremely rigorous and thorough review of the PHPP that has been done by the CEC, AVAQMD and EPA, and believes that the findings that the PHPP can be built and operated without significant impacts to be fully supportable. This project has been in the permitting process with the CEC and other agencies for almost three years, and it is past the time to be waiting for additional review to be performed. We therefore urge the Committee to reject any request from Lancaster to suspend hearings or any other aspect of the ongoing CEC certification process.

Best regards,

Michael J. Carroll
Of LATHAM & WATKINS LLP

cc: Lisa DeCarlo, Senior Staff Counsel, CEC
Felicia Miller, Project Manager, CEC