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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In the Matter of:) Appeal No. PSD 11-07
)
PETITION FOR REVIEW RE:) **PERMITTEE’S MOTION TO INTERVENE**
PALMDALE HYBRID POWER PLANT PSD)
PERMIT)
)
(Environmental Appeals Board Docket No. SJ)
08-01))
)
_____)

In accordance with Environmental Appeals Board (“Broad”) Practice Manual, permittee City of Palmdale (“City”) by its counsel hereby moves for leave to intervene in the above-captioned proceeding as a party. The petition for review filed by the April Rose Sommer on behalf of Robert Simpson on November 17, 2011 (“Petition”) involves the decision of the U.S. Environmental Protection Agency (“EPA”) to issue a Prevention of Significant Deterioration (“PSD”) permit to the City to construct and operate the proposed Palmdale Hybrid Power Plant (“PHPP”) project. See PSD Permit Number SE 09-01, October 18, 2011, EPA-R09-OAR-2011-0560.

The Board “typically allows permittees not already a party to the proceeding to participate as intervenors.” Board Practice Manual, § IV(D)(4); *see also In re District of Columbia Water and Sewer Authority*, (EAB June 15, 2007), NPDES Appeal No. 07-12, Order Granting Motion To Intervene As Party Respondent And Request To Respond To Third Parties’ Petition For Review (“the Board previously has granted motions for intervention upon the request of the permittee”).

In support of this motion, the City states:

1. The City, as the Permittee, is a party in interest in this proceeding with a direct and vested interest in the permit identified above and the expeditious conclusion of this appeal.
2. Including the City in this proceeding will result in administrative efficiency because, by virtue of its participation, the City will provide legal analysis and factual support from the record which is directly relevant to understanding the permit provisions and responding to issues raised in the Petition.
3. The City’s participation will not delay the Board’s ultimate resolution of the matter.
4. Not allowing the City to participate as a party may result in prejudice to the City. Because the Permit is a prerequisite to proceeding with the planned construction activities approved by the EPA, any unwarranted delay that may occur absent the City’s active participation would in turn delay construction activities and result in prejudice to the City.

WHEREFORE, the City respectfully requests that the Board grant the City intervenor status and leave to participate as a party in this proceeding and to respond to the Petition.

DATED: December 2, 2011

Respectfully submitted,

/S/ Michael J. Carroll

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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| In the Matter of: |) | Appeal No. PSD 11-07 |
| |) | |
| PETITION FOR REVIEW RE: |) | CERTIFICATE OF SERVICE |
| PALMDALE HYBRID POWER PLANT PSD |) | |
| PERMIT |) | |
| |) | (Revised December 2, 2011) |
| (Environmental Appeals Board Docket No. SJ |) | |
| 08-01) |) | |
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PETITIONER

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PALMDALE HYBRID POWER PROJECT PSD PERMIT
EAB Appeal No. PSD 11-07

PERMITTEE

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PALMDALE HYBRID POWER PROJECT PSD PERMIT
EAB Appeal No. PSD 11-07

DECLARATION OF SERVICE

I, Paul Kihm, declare that on December 5, 2011, I served and filed copies of the attached document to all parties identified on the Proof of Service List in the following manner:

PERMITTEE'S MOTION TO INTERVENE

For Service to Environmental Appeals Board

- Electronic transmission via CDX at <http://CDX.EPA.GOV>
- Transmission by depositing a copy with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:


U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
1341 G Street, N.W., Sixth Floor
Washington, D.C. 20005

- I certify that the attached document is an identical copy of the document electronically filed in this case with the Environmental Appeals Board on this date.

For Service to All Other Parties

- Transmission via electronic mail to all email addresses on the Proof of Service list; and
- by depositing one paper copy with the United States Postal Service via first-class mail at Costa Mesa, California, with postage fees thereon fully prepaid and addressed as provided on the Proof of Service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 5, 2011, at Costa Mesa, California.



Paul Kihm