



# PALMDALE

*a place to call home*

March 13, 2014

Ms. Deborah Jordan  
Director, Air Division  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

JAMES C. LEDFORD, JR.  
*Mayor*

TOM LACKEY  
*Mayor Pro Tem*

LAURA BETTENCOURT  
*Councilmember*

MIKE DISPENZA  
*Councilmember*

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**Subject: Application for the PSD Permit Extension for the Palmdale Hybrid Power Project**

Dear Ms. Jordan:

The City of Palmdale is the owner of the Palmdale Hybrid Power Project (PHPP), located on a 333 acre site in the northern portion of the City of Palmdale. The PHPP will consist of a hybrid of natural gas fired combined cycle turbines integrated with solar thermal generating equipment. The City of Palmdale, is requesting a Prevention of Significant Deterioration (PSD) permit extension from the Environmental Protection Agency, Region 9, based a recently issued memorandum by Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards, *Guidance on Extension of Prevention of Significant Deterioration Permits under 40 CFR 52.21(r)(2)*, January 31, 2014 ("EPA Extension Memorandum"). PHPP received its final PSD permit on September 25, 2012, and without further action would expire on or about March 25, 2014.

Consistent with EPA's Extension Memorandum, the first extension request must include the following requirements:

- a. The request must be submitted and received by Region IX prior to the expiration date of the permit.
- b. The request must include an acceptable justification as to why the commencement of construction did not occur as scheduled. The request must also include a revised construction schedule which assures that construction will be initiated during the extension period and that construction will be continuous.
- c. The request must be signed by a responsible representative of the company proposing the project.

*Auxiliary aids provided for*

*communication accessibility*

*upon 72 hours notice and request.*

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This differs from the previous extension requirements, as outlined by EPA Region 9, to include the following in addition to the justification as to why the project could not commence construction:

- a. An updated/revised BACT analysis must accompany the extension request, and the BACT analysis must address the impact on emissions of unregulated or toxic pollutants.
- b. A re-analysis of the PSD increment consumption and air quality impacts is required.
- c. The extension must show that the facility meets all new or interim PSD requirements.

Consistent with EPA's Extension Memorandum, these requirements no longer apply and, therefore, are not included in this extension request.

This application is being submitted at this time because the PSD approval to construct becomes invalid if construction is not commenced within 18 months after receipt of such approval, which occurs on March 25<sup>th</sup>, 2014. Good reason exists for why construction has not yet commenced, and will not commence by March 25<sup>th</sup>, 2014. This application, using the EPA Extension Memorandum as a guide, establishes the basis for the extension of the PSD permit for PHPP for another 18 months.

### **Background**

The PHPP consists of two General Electric (GE) Frame 7FA natural gas fired turbines rated at 154 megawatts (gross) each, two heat recovery steam generators, one steam turbine rated at 267 megawatts, and 251 acres of parabolic solar thermal collectors. The project is located on a 333 acre parcel in the northwest corner of Air Force Plant 42, east of the intersection of Sierra Highway and East Avenue M. The project is located in the City of Palmdale and is within the Antelope Valley Air Quality Management District.

The PSD permit covered the emissions of nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), total particulate matter (PM), particulate matter under 10 microns (PM<sub>10</sub>), particulate matter under 2.5 microns (PM<sub>2.5</sub>), and greenhouse gases (GHGs). The project will not cause or contribute to any violations of the National Ambient Air Quality Standards or PSD

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increments. The facility emissions are limited through the application of Best available control technology (BACT).

The public comment period on the PSD permit began on August 11<sup>th</sup>, 2011 with the deadline to receive comments ending on September 14<sup>th</sup>, 2011. Two days before the close of the comment period, a request was made to extend the comments period by 30 days. This request was denied. On October 18<sup>th</sup>, 2011, EPA Region 9 issued its final PSD permit.

The final permit was appealed to the Environmental Appeals Board (EAB) within 30 days of October 18<sup>th</sup>, 2011. On September 17<sup>th</sup>, 2012, the EAB issued an order denying the petition for review of the PSD permit. EPA Region 9, in a letter to the City of Palmdale, reissued the final PSD permit on September 25<sup>th</sup>, 2012.

On December 18, 2012, Robert J. Simpson (Simpson) filed a petition for review in the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") of EPA's issuance of the PSD permit to Palmdale. On July 15, 2013 the City of Palmdale and Simpson entered into a Settlement Agreement, but Simpson refused to dismiss the case as was required by the Settlement Agreement. On October 28, 2013, the Ninth Circuit granted the City of Palmdale's request to dismiss the case.

### **Technical Considerations**

Below is a description of how this request meets the requirements and considerations identified as relevant to a renewal request in the EPA Extension Memorandum.

#### ***Item a.***

#### **Request to Extend the PSD Permit Has Been Filled Prior to the Expiration Date**

The PHPP PSD permit will expire on or about March 25, 2014. This extension request is being filed in advance of the expiration date, and as such meets the requirements of the 2014 EPA Memorandum.

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***Item b.***  
**Justification for the Extension Request**

The January 31<sup>st</sup> 2014 Memorandum sets out relevant factors for justifying an extension request, and two of those relevant factors are litigation over the permit and the inability to secure financial resources necessary to commence construction. Both of these factors are present here.

The PHPP project requires an extension to its current PSD permit in order to successfully complete financing and construction of the facility. The Project was unable to achieve the financing or start construction milestones of the project until litigation regarding the PSD permit was resolved. On December 18, 2012, Robert J. Simpson (Simpson) filed a petition for review in the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") of EPA's issuance of the PSD permit to Palmdale. On July 15, 2013 the City of Palmdale and Simpson entered into a Settlement Agreement, but the litigation risk of the PSD Permit was not resolved at that time. Simpson refused to dismiss the case as was required by the Settlement Agreement, and likewise, Palmdale had to request that the court dismiss the case for him, which it did on October 28, 2013.

During the EAB appeals proceeding, the opportunity to bid into the CPUC energy market process could not be accomplished given the uncertainty of the date or even the ability to obtain the final uncontested PSD permit. Even if PHPP could theoretically attempt to "commence" construction in the near future, it could not do so as a practical matter, as the lead times needed to satisfy all of the California Energy Commission's preconstruction requirements are substantial. The necessary contracting and preconstruction filing requirements alone can often require 6 to 12 months of effort prior to the actual commencement of construction.

In addition, over the past few years, there have been few opportunities to contract for the output of the Project and without a power purchase agreement there are no reasonable methods to finance PHPP. Projects cannot be financed as a "Merchant Plant" given the current status of the financial markets. The City of Palmdale is currently in discussions with investors and Utilities regarding the sale of the Project's electrical energy. PHPP is one of the few projects that has obtained all of its necessary

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permits and has a transmission interconnection to serve the growing demand of the Southern California Markets.

Financing and completion of construction of PHPP, as with any power plant, is also dependent upon a final, uncontested PPA. Given the timing of CPUC decisions where the appeals process can be substantial, the potential for delays and the subsequent effort required to close financing, it is unreasonable to assume that construction can commence prior to March 25, 2014. Therefore, it is prudent to seek an extension of the PSD permit such that it will still be in good standing at the time of financing approval and subsequent mobilization of the construction force, which are anticipated in late 2015 timeframe.

PHPP is not requesting any changes to the PSD permit as part of this extension request beyond a change to the relevant date.

***Item c.***  
**Anticipated Schedule**

The schedule for financing, construction and commercial operation of PHPP is dependent upon the PPA approval schedule at the CPUC. Assuming a final and un-contested PPA by April 2015, PHPP anticipates 3-6 months of pre-mobilization activities leading to a full construction release in late 2015. Construction, start-up and testing are expected to require 30 months resulting in commercial operation by Spring/Summer 2018.

***Item d.***  
**Extension Request**

PHPP is requesting an 18 month extension to the PSD permit.

***Item e.***

This application is signed by a responsible representative of the City of Palmdale who is proposing the extension.

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***Item f.***

**Requirements That Have Taken Effect During the Initial 18-Month Permit Term**

Since the date of the final PSD permit (September 25, 2012), EPA has vacated the PM2.5 significant monitoring concentrations (SMC) as well as the PM2.5 significant impact levels (SILs). The national ambient air quality standard (NAAQS) for annual PM2.5 was revised from 15 ug/m<sup>3</sup> down to 12 ug/m<sup>3</sup>. However, none of these new requirements will impact the projects ability to demonstrate compliance with the NAAQS or PSD increments.

First, the use of the PM2.5 SILs is appropriate for this project based on the fact that the background 24-hour and annual PM2.5 concentrations are well below the applicable NAAQS. The project did not rely on SILs to determine if the impacts were contributing to PM2.5 nonattainment as the area is in attainment for this pollutant.

Secondly, the project did not use the PM2.5 SILs as a means to avoid preparing the increment and cumulative NAAQS analyses. The modeled project only impacts exceeded the PM2.5 SILs, thus triggering the cumulative analysis. The results of the cumulative analysis clearly demonstrate compliance with the PM2.5 NAAQS by a substantial margin.

And third, the project utilized the nearby PM2.5 monitor in order to establish the representative background concentration of PM2.5. Thus, the project did not rely on the SMC for PM2.5.

Based on the revised requirements for PM2.5 that have become effective during the last 18 months of the final PSD permit, PHPP compliance with the PM2.5 standards is assured.

***Item g.***

**PSD Permit Extensions for Areas That Have Been Redesignated From Attainment to Nonattainment**

The air basin in which the PHPP is located has not been redesignated from attainment to nonattainment over the last 18 months. Thus, the federal designations at the time of the final PSD permit are still valid.

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Thank you for considering our request. If you have any question or  
comments regarding this application, please don't hesitate to call me at

Sincerely,

**RESPONSIBLE REPRESENTATIVE – PHPP**

Name: David Childs

Title: City Manager

Signature: \_\_\_\_\_

*David Childs*

Date: March 13, 2014

MM:bal



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

March 20, 2014

David Childs, City Manager  
City of Palmdale  
38300 Sierra Highway, Suite A  
Palmdale, CA 93550

**Re: Additional Clarification Needed for PSD Permit Extension Request for the Palmdale Hybrid Power Project**

Dear Mr. Childs:

On March 18, 2014, the U.S. Environmental Protection Agency, Region 9 (EPA) received the City of Palmdale's (City) request, dated March 13, 2014, for an 18-month extension of the deadline for commencing construction in your Clean Air Act Prevention of Significant Deterioration (PSD) permit for the Palmdale Hybrid Power Project (PHPP) – Permit No. SE 09-01. EPA issued a final and effective PSD permit decision for the PHPP on September 25, 2012. Pursuant to Condition I.A of the permit and 40 CFR 52.21(r), the PSD permit becomes invalid if construction is not commenced within 18 months after the approval of the PSD permit takes effect unless EPA issues an extension of this deadline based on its determination that the City has made a satisfactory showing that an extension is justified. As stated in your March 13, 2014 letter, construction has not yet commenced on the PHPP and will not commence by March 25, 2014 – the date the permit is set to expire if construction is not commenced, absent an extension by EPA. As such, you submitted a request for an extension of the deadline for commencing construction of the PHPP to EPA under 40 CFR 52.21(r)(2), in accordance with EPA's recently issued guidance document, *Guidance on Extension of Prevention of Significant Determination Permits under 40 CFR 52.21(r)(2)* (January 31, 2014) (PSD Permit Extension Guidance).

EPA has reviewed your March 13, 2014 letter, and requests the following clarifications from the City prior to making our determination on your extension request:

1. *Potential project changes.* Page 5 of your request states: "PHPP is not requesting any changes to the PSD permit as part of this extension request beyond a change to the relevant date." EPA notes, however, that information posted on the City of Palmdale's website at this time indicates that changes to the configuration of the PHPP may occur in association with a potential sale of the PHPP to Summit Power.<sup>1</sup> Depending on their magnitude, such changes could significantly impact the existing PSD permit's conditions and may require further analysis. Please clarify, to the best of the City's knowledge, the current status of any plans on behalf of the City or Summit Power to significantly change the project in the near future and, if such a change is expected,

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<sup>1</sup> [http://www.cityofpalmdale.org/departments/publicworks/power\\_plant/](http://www.cityofpalmdale.org/departments/publicworks/power_plant/)



why an extension of the deadline for commencing construction under the existing permit is needed. If such plans are under consideration but uncertain at this time, please explain.


2. *Anticipated schedule.* Page 5 of your request, Item c, discusses the City's anticipated schedule for financing, construction and commercial operation of the PHPP. This discussion appears to state that "a full construction release" is anticipated within 3-6 months of a final and uncontested power purchase agreement (PPA) by April 2015, which by our calculation would mean that a full construction release would occur by October 2015. Item d of your request states that the City is requesting an 18-month extension; if granted, this would result in an extension until September 25, 2015 potentially creating a slight discrepancy between the anticipated schedule and permit expiration. Please clarify the meaning of the phrase "full construction release", and please confirm that the timeframe you have requested for the extension is consistent with the expected date for commencement of construction under the City's current anticipated schedule.

EPA is requesting a response to this request for clarification by April 3, 2014. If a response is not received by April 3, 2014, EPA intends to make a determination on your request based on the information provided in your March 13, 2014 letter.

Finally, EPA advises that if significant changes to the project will occur, please plan for adequate time to obtain the necessary authorization from EPA under the PSD permit program for the redesigned project.

If you should have any questions concerning this matter, please contact Lisa Beckham at (415) 972-3811 or [beckham.lisa@epa.gov](mailto:beckham.lisa@epa.gov).

Sincerely,



Gerardo C. Rios  
Chief, Permits Office

cc: Mike Mischel, City of Palmdale  
Gregory Darvin, Consultant  
Thomas Johns, Summit Power  
Tom Cameron, Summit Power

2-3592



# PALMDALE

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March 31, 2014

Mr. Gerardo C. Rios  
Chief, Permits Office  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

**Subject: Additional Clarification for the PSD Permit Extension Request for the Palmdale Hybrid Power Project**

The City of Palmdale as the owner of the Palmdale Hybrid Power Project (PHPP) is providing the following response to your letter of March 20, 2014 in which you requested additional information related to the PHPP PSD extension request dated March 17, 2014.

1. Potential Project Changes - The City has been working with Summit Power Group on a potential sale of the PHPP. The contemplated sale of the PHPP is significantly advanced but it has not occurred and may not occur. There are currently no firm plans to make any material modifications to the Project that would significantly impact the PSD Permit.
2. Anticipated Schedule - The City would like to clarify that the term "Full Construction Release" was intended to mean the start of project construction and the start of project construction is planned to occur prior the end of the requested PSD extension period of September 25, 2015.

Thank you again for considering our request. If you have any question or comments regarding this application, please don't hesitate to contact us.

Sincerely,

**RESPONSIBLE REPRESENTATIVE – PHPP**

Name: David Childs  
Title: City Manager

Signature: David Childs  
Date: March 31, 2014

JAMES C. LEDFORD, JR.  
*Mayor*

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