

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and between Cilion, Inc. and Edmund G. Brown Jr., Attorney General of California, on behalf of the People of the State of California (“AG”). Cilion and the Attorney General are referred to herein collectively as the “Parties.” This Agreement is effective as of the date it is signed by the Parties (the “Effective Date”).

RECITALS

In response to an application submitted by Cilion, Inc. to the Kern County Planning Department seeking various approvals to construct a corn ethanol plant adjacent to the Western Milling Feed Mill near Famoso (“Project”), a mitigated negative declaration was prepared and circulated for public comment in January 2007. On June 12, 2007, the Kern County Board of Supervisors referred the proposal back to staff for preparation of an Environmental Impact Report (“EIR”).

In August 2007, in accordance with the requirements of the California Environmental Quality Act (“CEQA”), the County prepared and circulated a Notice of Preparation of an EIR for the Project. A Draft Environmental Impact Report was circulated for public comment in January 2008. Public comments were received on the Draft EIR in writing and at a public meeting held on March 25, 2008. On April 3, 2008, the County issued a Notice of Determination that it had approved the Project with mitigation measures and a mitigation monitoring program as conditions of approval, adopted a Statement of Overriding Considerations pursuant to section 15093 of the State CEQA Guidelines, and certified the Final EIR for the Project.

According to the EIR, the Project will utilize corn currently imported by rail from the Midwest and delivered to the adjacent Western Milling Feed Mill to produce up to 55 million gallons of fuel-grade anhydrous ethanol per year, in addition to wet distillers’ grains for delivery to local markets. The Project design includes a steam turbine co-generation unit that will maximize the energy efficiency of the ethanol production process. The EIR estimates that the Project will emit approximately 179,000 tons of greenhouse gases (“GHGs”) per year, and finds that this is a significant impact under CEQA.

The AG timely submitted comments to the County (copy attached as Exhibit A) during the environmental review process in connection with the County’s consideration of the Project contending, *inter alia*, that the Final EIR for the Project was inadequate under CEQA. The County and Cilion dispute the AG’s contention that the Final EIR for the Project is inadequate.

Given that, on this record and as of this date, there exists a genuine dispute between the Parties regarding the issues raised by the AG in his comment letter to the County; and

Given the uncertainties in the outcome of the Parties' dispute, and taking into account the procedural posture of this dispute as well as the public interest; the Parties have decided to resolve the issues presented by the AG's comment letter without the need for judicial proceedings.

Therefore, the Parties agree as follows:

AGREEMENT

Without admitting liability, or that the County's analysis of the project's greenhouse gas emissions is inadequate, or that the mitigation measures imposed on the project are inadequate, or that additional mitigation is feasible, and solely as a compromise of the issues raised by the AG, it is hereby agreed as follows:

1. Mitigation Measure (MM) 4.3-34(a) of the Environmental Impact Report for the Project states, "After project commencement, [Cilion] shall become a 'Forest Founder' of the Tree Foundation of Kern and/or the Kern River Parkway Foundation or use some other appropriate tree planting organization. [Cilion] shall purchase 2,000 trees at \$50 per tree to be planted within Kern County over the next five years, at a minimum rate of 400 trees per years. [Cilion] shall provide appropriate documentation regarding the plan for tree planting and the purchasing of the tree planting."

a. Prior to purchasing any trees contemplated under MM 4.3-34(a), Cilion shall submit a letter to the AG demonstrating that the tree planting organization and the plan for tree purchasing and planting that Cilion proposes to choose will maximize the carbon dioxide uptake of the trees planted by Cilion over the life of the plan, and will comply with the urban forest carbon protocol to be adopted by the Climate Action Registry in 2008 or, if no protocol is adopted, the Parties will meet to determine an appropriate protocol.

2. Unless reduced by operation of Paragraph 4 below, Cilion shall pay \$390,000 to a fund for the mitigation of greenhouse gases to be established and administered by the San Joaquin Valley Air Pollution Control District ("SJVAPCD") pursuant to a memorandum of understanding ("MOU") further described in Paragraph 5, below. This payment shall be made in three installments, as follows: Cilion shall pay \$130,000 at the end of the first full year of operations; Cilion shall pay an additional \$130,000 at the end of the second full year of operations; Cilion shall pay a third installment of \$130,000 at the end of the third full year of operations. Payments made under this Paragraph shall be made, together with notice to the Attorney General, within thirty days of the end of each full year of operations. A full year of operations means the 12 months following the completion of the Acceptance Test at which point the facility is deemed to have been taken over by Cilion. Within ten business days of completion of the Acceptance Test, Cilion shall sign a Performance Certificate provided by the engineering company that performs the Acceptance Test, and provide a copy of the Certificate to the Attorney General and the San Joaquin Valley Air Pollution Control District.

3. Subject to paragraph 4 and prior to the end of the third full year of operations, Cilion may elect to implement additional onsite and/or local mitigation measures to reduce the Project's greenhouse gas ("GHG") emissions by using one or more of the following options:

- a. Onsite carbon dioxide capture, marketing and/or sequestration;
- b. Alternative transportation options for transport of ethanol and/or distillers grain products;
- c. Installation of onsite renewable energy projects, such as installation of solar or thermal;
- d. Use of alternative feedstock or alternative technologies for the production of ethanol, including cellulosic technology, that results in demonstrably lower GHG emissions from operation of the Project;
- e. Additional measures that would demonstrably lower the GHG emissions of the Project, to be determined with oversight by SJVAPCD.

4. Cilion shall receive a credit in reduction of its payment obligation under Paragraph 2 of \$25 (twenty-five dollars) for each real, permanent, enforceable, additional and verifiable ton of GHG emissions reductions that Cilion achieves by implementing any of the alternative measures set forth in Paragraph 3. To obtain such credits, Cilion shall present a plan or program for the implementation of any of the alternative measures set forth in Paragraph 3 to the AG and the SJVAPCD for review and approval according to accepted protocols adopted or utilized by the California Air Resources Board and/or the California Climate Action Registry. In addition, Cilion shall comply with all criteria and standards imposed by the SJVAPCD for purposes of receiving this credit, including SJVAPCD regulations governing potential emissions of criteria air pollutants and toxic air contaminants, as determined by the SJVAPCD. The AG shall not unduly delay their review and approval of any proposed measure by Cilion to effectuate GHG emissions reductions, and the approval of any such proposals by the AG shall not be unreasonably withheld. The credit authorized by this paragraph shall become effective upon implementation of the approved alternative measure.

5. The MOU set forth in Paragraph 2 will be entered into between Cilion, the AG and SJVAPCD. The MOU will fund projects that will achieve reductions in greenhouse gas emissions that are real, permanent, verifiable, enforceable and additional, in this order: (1) projects resulting in the installation of residential or other solar systems in Kern County; (2) projects resulting in greenhouse gas emission reductions in Kern County; (3) projects resulting in greenhouse gas emission reductions in the San Joaquin Valley. In the event that the MOU has not been signed by November 1, 2008, Cilion and the AG will meet to agree upon an alternative recipient for the funding specified in Paragraph 2, and an oversight mechanism to serve the purposes of this Paragraph and of this Agreement. Cilion shall not be responsible for the distribution of funding to individual projects, and also shall not be responsible for certifying or otherwise ensuring that such projects achieve real, permanent, verifiable, enforceable and additional reductions in greenhouse gas emissions.

6. At the end of each year of operations, Cilion will submit a report to the SJVAPCD, the County and the AG describing and reporting on the status of the performance of Cilion's obligations under this Agreement. The required contents of the mitigation and monitoring report will be set forth in the MOU.

7. Nothing in this Agreement relieves Cilion of its obligation to fully comply with any requirements of the California Health and Safety Code Division 25.5, sections 38500, et seq., the California Global Warming Solutions Act ("AB32"), which may be or become applicable to the Project. Nothing in this Agreement is intended to prevent another State agency from recognizing appropriate credit for Cilion for early voluntary reduction of greenhouse gas emissions pursuant to this Agreement or otherwise.

8. The AG agrees to not file any legal challenge or otherwise intervene or participate in any proceeding against Cilion and/or the County that challenges the County's approval of the Project, the adequacy of the EIR for the Project, or any further approvals required from responsible agencies acting pursuant to the EIR for the Project, including the action entitled *Association of Irrigated Residents v. County of Kern*, Kern County Superior Court Case No. S-1500-CV-263841 NFT. The AG further agrees not to raise in any other proceeding regarding this Project any of the issues that the AG raised, or could have raised, during the CEQA environmental review process conducted by the County for this Project

9. This agreement represents the entire agreement of the Parties with respect to the subject matter herein, and merges and supercedes any prior written or oral representations, discussion, understandings or agreements by or between the Parties relating to the subject matter of this Agreement.

10. No addition or modification of any term or provision of this Agreement will be effective unless set forth in writing and signed by an authorized representative of each of the Parties.

11. Each Party represents and warrants that it has the right, power, and authority to execute this Agreement. Each Party represents and warrants that it has given any and all notices, and obtained any and all consents, powers and authorities, necessary to permit it, and the persons executing this Agreement for it, to enter into this Agreement.

12. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

13. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement shall be binding upon the receipt of facsimile signatures.

14. This Agreement shall be deemed to have been jointly drafted, so that the general rule of construction that it be construed against the drafter shall not apply.

15. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to be given when served personally or on the third day after mailing if mailed in the United States, postage prepaid, to the address for each Party set forth below:

For the Attorney General:

Raissa S. Lerner
Office of the Attorney General
1515 Clay Street, PO Box 70550
Oakland, CA 94612-0550

For Cilion:

Jeremy Wilhelm
EVP & Chief Administrative Office
Cilion, Inc.
31189 Road 68
Goshen, CA 93227

16. Cilion's obligation to make the payments described in this Agreement is contingent upon Cilion obtaining all necessary permits for the Project, construction of the Project, and commencement of Project operations.

17. The Parties will execute all further and additional documents as shall be convenient, necessary or desirable to carry out the intents and provisions of this Agreement.

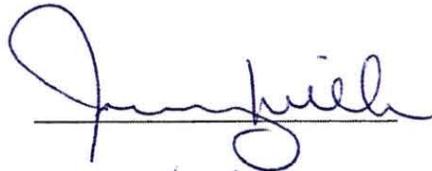
In witness whereof, this Agreement is executed by the following:

For: PEOPLE OF THE STATE OF
CALIFORNIA ex rel. ATTORNEY
GENERAL EDMUND G. BROWN JR.



Dated: 8/25/08

CILION, INC.



Dated: 8/20/08