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June 8, 2009

Ms. Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Southeast Region Energy Project (06-AFC-04)

DOCKET	
06-AFC-4	
DATE	<u>JUN 08 2009</u>
RECD.	<u>JUN 09 2009</u>

Dear Ms. Jones:

On behalf of the City of Vernon (City), we hereby respond to your letter to Donal O'Callaghan of the City, dated May 7, 2009, wherein you requested additional information regarding how the City plans to address emission offset requirements for the Southeast Region Energy Project (SREP) in light of developments in the South Coast Air Quality Management District (SCAQMD) affecting the availability of emission offsets. You have indicated that you plan to use this information to evaluate whether or not it would be appropriate for staff to request that the project siting committee suspend further work on the application.

As you point out in your letter, it was the City's intention to rely on SCAQMD Rule 1309.1 - Priority Reserve as its source of emission offsets for particulate matter (PM) and sulfur oxides (SOx). As you point out, that option has been precluded for the time being as a result of a ruling in California Superior Court.¹ As a result, the City has been actively pursuing a number of alternative sources of offsets. As set forth below, there are a number of viable options for satisfying the emission offset requirement for the SREP, some of which may come to fruition in the very near term.

On February 27, 2009, California Senator Rodney Wright introduced Senate Bill No. 696 (SB 696).² SB 696 would authorize the SCAQMD to make emission offsets available from its internal emission offset accounts to various types of projects, including electric generating

¹ NRDC et al. v. SCAQMD, Case Number B110792.

² SB696 is available at http://info.sen.ca.gov/cgi-bin/postquery?bill_number=sb_696&sess=CUR&house=B&site=sen (last visited 5/28/09).

facilities, under specified circumstances. It would further exempt the actions of the SCAQMD from review under the California Environmental Quality Act. SB 696 would provide an alternative legislative solution for the SREP. SB 696 is also an urgency bill which would take effect immediately upon being signed by the Governor.

The City is participating in the newly established SCAQMD working group that was formed to develop new mechanisms for creating PM offsets. The first mechanism that is being considered by this working group is the generation of offsets from the paving of unpaved roads, as has been done in other California air districts. We understand that proposed rule language has been developed, and that it will be made available by SCAQMD soon. The proposed rule is modeled on other rules which have been adopted in California and Arizona, and in the case of Arizona, approved by EPA into the state implementation plan. The CEC has previously approved projects which have offset their PM emissions through road paving.³

SCAQMD staff has also committed to clarifying or amending the rules governing its SOx RECLAIM program to allow all electric generating facilities to opt into that program and thereby satisfy their SOx emission offset obligation using SOx RECLAIM Trading Credits (RTCs). SOx RTCs are generally available on the open market. Under current rules, it is clear that electric generating facilities owned by the investor owned utilities can opt into the SOx RECLAIM program, but it is less clear that other projects can do so.

As summarized above, the City is working diligently on its own and with the SCAQMD on a number of alternative sources of emission offsets for the SREP. We have every reason to believe that one or more of these options will come to fruition and will allow the City to secure the offsets necessary to complete development of the SREP. We also note that as far as the City is aware, the staff is not actively working on this pending application. Therefore, the existence of the open application is not resulting in a diversion of scarce resources from other matters. Under the circumstances, the application for the SREP should remain active.

Thank you for your attention to this matter. Please let me know if you have any further questions.

Very truly yours,



Michael J. Carroll
Of LATHAM & WATKINS LLP

Cc: Mohsen Nazemi, SCAQMD
Donal O'Callaghan, City of Vernon
Krishna Nand, City of Vernon

³ High Desert Power Project (97-AFC-01) and Victorville 2 Hybrid Power Plant (07-AFC-01).

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 06-AFC-4
)	
Application for Certification, for the VERNON POWER PLANT PROJECT by the City of Vernon)	PROOF OF SERVICE LIST
)	(Revised April 24, 2009]
)	
_____)	

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VERNON POWER PLANT POWER PROJECT
CEC Docket No. 06-AFC-04

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VERNON POWER PLANT POWER PROJECT
CEC Docket No. 06-AFC-04

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VERNON POWER PLANT POWER PROJECT
CEC Docket No. 06-AFC-04

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on June 8, 2009, I served and filed copies of the attached:

LETTER FROM MICHAEL CARROLL TO MELISSA JONES

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

- Transmission via electronic mail and by depositing one original paper copy with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

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1516 Ninth Street, MS-4
Sacramento, California 95814-5512
docket@energy.state.ca.us

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 to those addresses **NOT** marked "email preferred."

I further declare that transmission via electronic mail and U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 8, 2009, at Costa Mesa, California.



Paul Kihm