



DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, CORPS OF ENGINEERS  
P.O BOX 532711  
LOS ANGELES, CALIFORNIA 90053-2325

October 4, 2006

REPLY TO  
ATTENTION OF:

Office of the Chief  
Regulatory Branch

<b>DOCKET</b> 06-AFC-4
DATE <u>OCT -4 2006</u>
RECD. <u>OCT 26 2006</u>

Mr. James Reede  
California Energy Commission  
1516 9th Street  
Sacramento, California 95814-5504

Dear Mr. Reede:

Reference is made to your jurisdictional determination request (No. 200601792-PHT) dated October 3, 2006 concerning construction of electrical transmission lines over Los Angeles River associated with the Vernon Power Plant Project in Vernon, Los Angeles County, California.

Information furnished by Mr. James Reede on October 4, 2006, indicate that construction of electrical transmission structures will be completed approximately 100 feet away from both river banks. Based on the above, we have determined that your proposed project does not discharge dredged or fill material into a water of the United States or an adjacent wetland. Therefore, the project is not subject to our jurisdiction under Section 404 of the Clean Water Act and a Section 404 permit is not required from our office.

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process for jurisdictional determinations which is fully described at 33 CFR Part 331. The Administrative Appeal Process for jurisdictional determinations is diagrammed on the enclosed Appendix C. If you decide not to accept this approved jurisdictional determination and wish to provide new information, please send the information to this office. If you do not supply additional information you may appeal this approved jurisdictional determination by completing the attached "Notification of Administrative Appeal Options and Process and Request for Appeal" form and submitting it directly to the Appeal Review Officer at the address provided on the form.

Please be aware that our determination does not preclude the need to comply with Section 13260 of the California Water Code (Porter/Cologne) and we recommend that you contact the California Regional Water Quality Control Board to insure compliance with the above regulations. Furthermore, our determination does not obviate the need to obtain other Federal, state, or local authorizations required by law.

PROOF OF SERVICE (REVISED 10/4/06) FILED WITH  
ORIGINAL MAILED FROM SACRAMENTO ON 10/26/06

*[Handwritten Signature]*

If you have any questions, please contact Ms. Phuong H. Trinh of my staff at (213) 452-3372.

Sincerely,

A handwritten signature in cursive script that reads "Mark Durban".

Aaron O. Allen, Ph.D.  
Chief, North Coast Section  
Regulatory Branch

Handwritten initials "AL" in cursive script.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: City of Vernon		File Number: 200601792	Date: October 4, 2006
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.**

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

DISTRICT ENGINEER  
Los Angeles District, Corps of Engineers  
ATTN: Chief, Regulatory Branch  
P.O. Box 532711  
Los Angeles, CA 90053-2325

Tel. (213) 452-3425 FAX (213) 452-4196

If you only have questions regarding the appeal process you may also contact:

Douglas R. Pomeroy, Appeal Review Officer  
U.S. Army Corps of Engineers, CESPD-ET-CO  
333 Market Street  
San Francisco, CA 94015-2195

Tel. (415) 977-8035 FAX (415) 977-8047

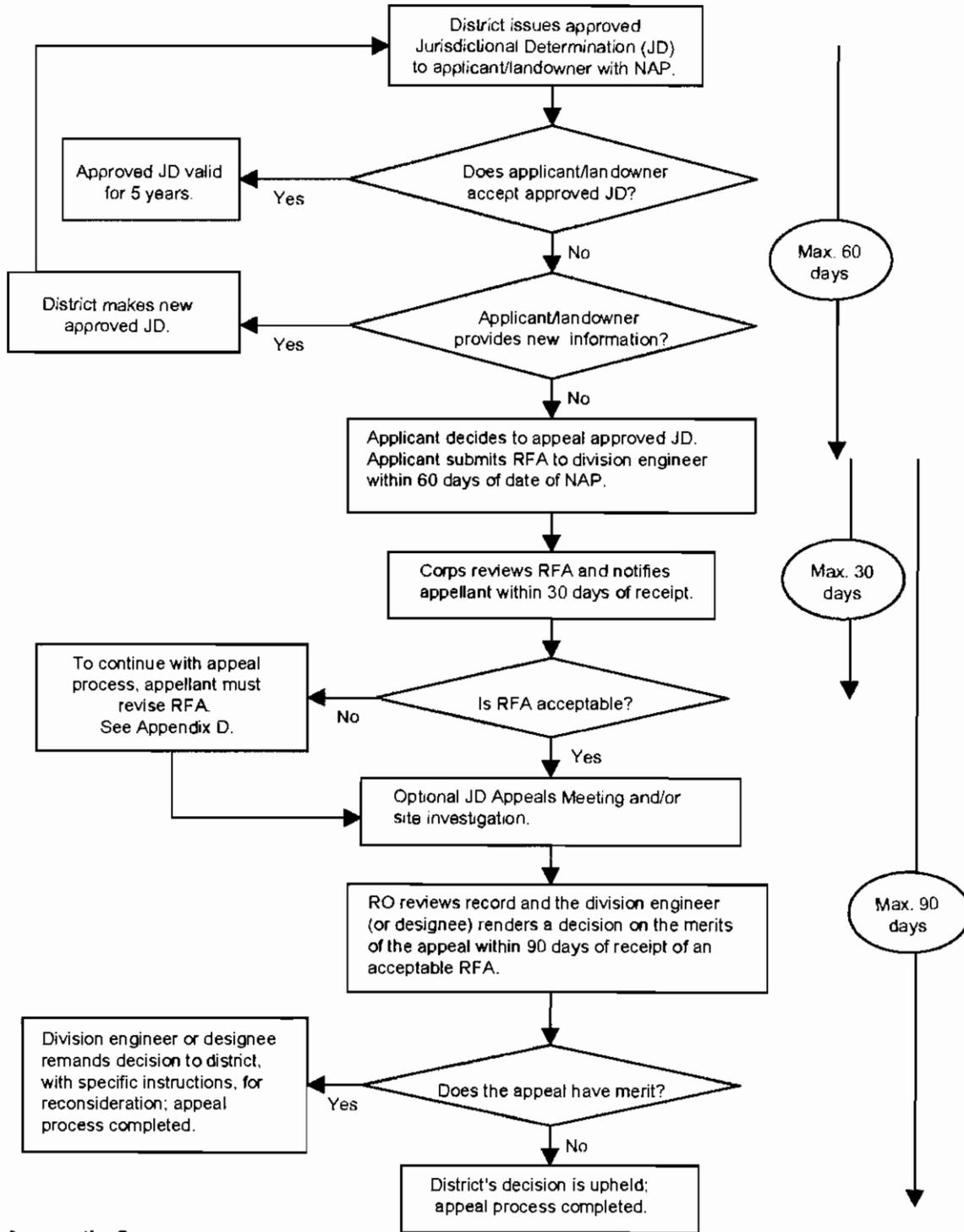
**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

\_\_\_\_\_  
Signature of appellant or agent.

Date:

Telephone number:

## Administrative Appeal Process for Approved Jurisdictional Determinations



Appendix C

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

**APPLICATION FOR CERTIFICATION  
FOR THE VERNON POWER PLANT PROJECT  
BY THE CITY OF VERNON**

**DOCKET NO. 06-AFC-4  
PROOF OF SERVICE LIST  
(REVISED 10/4/06)**

**INSTRUCTIONS: All parties shall (1) file a printed, original signed document plus 12 copies OR file one original signed document and e-mail the document to the Docket address below, AND (2) all parties shall also send a printed OR electronic copy of the document, plus a proof of service declaration, to each of the entities and individuals on the proof of service list:**

CALIFORNIA ENERGY COMMISSION  
Attn: DOCKET NO. 06-AFC-4  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**APPLICANT**

Donal O'Callaghan  
Director of Light and Power  
City of Vernon  
4305 Santa Fe Avenue  
Vernon, CA 90058  
[docallaghan@ci.vernon.ca.us](mailto:docallaghan@ci.vernon.ca.us)

Krisna Nand  
Environmental Project Manager  
City of Vernon  
4305 Santa Fe Avenue  
Vernon, CA 90058  
[knand@ci.vernon.ca.us](mailto:knand@ci.vernon.ca.us)

John Carrier  
Environmental Consultant  
CH2M Hill  
2485 Natomas Park Dr. #600  
Sacramento, CA 95833-2937  
[john.carrier@ch2m.com](mailto:john.carrier@ch2m.com)

**COUNSEL FOR APPLICANT**

Eric Freisch  
City Attorney  
City of Vernon  
4305 Santa Fe Avenue  
Vernon, CA 90058  
[kenomoto@ci.vernon.ca.us](mailto:kenomoto@ci.vernon.ca.us)

**INTERESTED AGENCIES**

Electricity Oversight Board  
770 L Street, Suite 1250  
Sacramento, CA 95814  
[esaltmarsh@eob.ca.gov](mailto:esaltmarsh@eob.ca.gov)

John Yee and Chandrashekhar Bhatt  
South Coast Air Quality Mgmt. District  
21865 E. Copley Drive  
Diamond Bar, CA 91765-4182  
[jyee@aqmd.gov](mailto:jyee@aqmd.gov)  
[cbhatt@aqmd.gov](mailto:cbhatt@aqmd.gov)

**INTERESTED COMMUNITY GROUPS**

Bahraim Fazeli  
Communities for a Better Environment  
5610 Pacific Boulevard  
Huntington Park CA 90255  
[bfazeli@yahoo.com](mailto:bfazeli@yahoo.com)  
[bfazeli@cbeval.org](mailto:bfazeli@cbeval.org)

**INTERVENORS**

**\* California Unions for Reliable Energy**  
**Marc D. Joseph, Esq.**  
**Gloria D. Smith, Esq.**  
**Adams Broadwell Joseph & Cardozo**  
**601 Gateway Blvd., Suite 1000**  
**South San Francisco, California 94080**  
[gsmith@adamsbroadwell.com](mailto:gsmith@adamsbroadwell.com)  
[mdjoseph@adamsbroadwell.com](mailto:mdjoseph@adamsbroadwell.com)

**ENERGY COMMISSION**

Jackalyne Pfannenstiel, Chair  
Presiding Committee Member  
[jpfannen@energy.state.ca.us](mailto:jpfannen@energy.state.ca.us)  
[cgraber@energy.state.ca.us](mailto:cgraber@energy.state.ca.us)

James D. Boyd, Commissioner  
Associate Committee Member  
[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

Susan Geffer  
Hearing Officer  
[sgeffer@energy.state.ca.us](mailto:sgeffer@energy.state.ca.us)

James W. Reede, Jr., Ed.D  
Siting Project Manager  
[jreede@energy.state.ca.us](mailto:jreede@energy.state.ca.us)

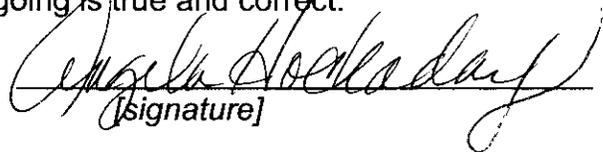
Kenneth Celli  
Staff Attorney  
[kcelli@energy.state.ca.us](mailto:kcelli@energy.state.ca.us)

Margret J. Kim  
Public Adviser  
[pao@energy.state.ca.us](mailto:pao@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Angela Hockaday, declare that on October 26, 2006, I deposited the required copies of the attached Letter from Aaron O. Allen/Department of the Army to James Reede/CEC RE: Notification of Administrative Appeal Options and Process and Request for Appeal for the Vernon Power Plant Project, in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

  
[signature]