

Ian M. Forrest
Direct: (310) 785-5389
Fax: (310) 712-3380
IForrest@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
JMBM.com

April 25, 2007

Dr. James Reede, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, California 95814

John Yee
South Coast Air Quality Management District
21865 Copley Drive
Diamond Bar, California 91765

DOCKET 06-AFC-4	
DATE	APR 25 2007
RECD.	APR 27 2007

Re: Proposed City of Vernon Power Plant Project (06-AFC-04)

Dear Dr. Reede and Mr. Yee:

This office represents Rite-Way Meat Packers, Inc. ("Rite-Way"), whose operations are adjacent to the site of the proposed City of Vernon Power Plant Project (06-AFC-04) (the "VPP"). On November 27, 2006, Irwin Miller, President of Rite-Way wrote a letter to your attention in which he expressed the following concerns:

- The creation of conditions which propagate and release pathogens, including, but not limited to mold, viruses, and bacteria. In particular, Mr. Miller identified the location and design of the VPP cooling towers as factors which exacerbate the formation and release of pathogens. These issues must be evaluated and addressed;
- The need to thoroughly investigate VPP's potential impacts on the community and adjacent land uses, including impacts arising from increased airborne pathogens, moisture, particulate matter, traffic, health and safety and, the effects of the pathogens and other contaminants on Rite-Way's operations;
- The need to consider the standards placed upon Rite-Way operations by the U.S. Food and Drug Administration, Centers for Disease Control, and California state departments with responsibility for public health. This should include an assessment as to how the VPP will impact Rite-Way's ability to comply with applicable health and safety standards; and
- The need to thoroughly investigate VPP design alternatives and/or measures to effectively mitigate the concerns of the adjacent land owners.

Rite-Way's concerns have not been addressed. The VPP proposes to generate considerable amounts of air pollution in a region with one of the worst air quality problems in the nation. As a food preparation industry immediately adjacent to a proposed source of

PROOF OF SERVICE / REVISED 3/12/07 FILED WITH
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significant air pollution, Rite-Way stands to disproportionately suffer the adverse air quality, traffic and other impacts of the VPP should it come on line. Specifically, Rite-Way remains unaware of any study of the effects of the cooling towers and increased moisture at and around Rite Way's facilities. If such studies or information do exist, please consider this as a Public Records Act request for such studies. The effects of power plants on adjacent food preparation operations have been documented via CEC Docket No. 1-AFC-24 & 1-AFC-24C (the effects of the Palomar Energy Facility upon Bimbo Bakeries), which we incorporate by reference herein.

The majority of Rite-Way's business is meat processing and handling, operations which are susceptible to pathogens and subject to stringent regulatory requirements. For example, under USDA regulations, *all* water in the Rite-Way facility must be *potable* -- even the water used to wash the floors.¹ If vapor from the recycled water used in the VPP cooling towers enters the air intake of Rite-Way's operations, it may contaminate the entire facility. Rite-Way's air intake consists of a carefully monitored system controlling positive and negative air flow to reduce the potential for contamination of its facilities. Increased pathogens from the VPP, as well as the vapor creating conditions on Rite-Way's roof supporting pathogen growth, may result in pathogen laden air being taken into Rite-Way's facilities and contaminating Rite-Way's ready-to-eat food products. The VPP potentially will result in the destruction of Rite-Way's business - a consequence which is compensable under the law.

Using the Palomar Energy Facility's documented impacts on Bimbo Bakeries as a guide, the AFC and Staff Assessments should critically evaluate the potential public health concerns caused by increased moisture and airborne pathogens upon Rite-Way's operations. Rite-Way has no indication that the City of Vernon has either: (1) adequately considered reconfiguring the proposed VPP site design to address local concerns; (2) requested the opinions of public health agencies; or (3) otherwise made efforts to address the environmental concerns prompted by the current site design. Failure to consider these and other impacts will result in a energy project that is wholly incompatible with Rite-Way's adjacent facilities in violation of relevant laws, ordinances, regulations and standards. It will also result in an environmental and health impacts review that is not adequate under the law.

¹ Title 9, Section 318.14 of the Federal Code of Regulations provides, in relevant part, "In the event there is polluted water...in an official establishment, all products and ingredients for use in the preparation of such products that have been rendered adulterated by the water shall be condemned."

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In light of the above, we reiterate our concerns as expressed in our November 17, 2006 letter and as further clarified herein. We appreciate your attention and efforts to date in this matter. Please contact us immediately should you have any questions or comments.

Very truly yours,



IAN M. FORREST
Jeffer, Mangels, Butler & Marmaro LLP

IMF:imf

cc: Irwin Miller, President, Rite-Way Meat Packers, Inc.
Malcolm C. Weiss, Esq.
Benjamin M. Reznik, Esq.

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 3/12/07)

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

APPLICANT

Donal O'Callaghan
Director of Light & Power
City of Vernon
4305 So. Santa Fe Avenue
Vernon, CA 90058
docallaghan@ci.vernon.ca.us
rtoring@ci.vernon.ca.us

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

COUNSEL FOR APPLICANT

Jeff A. Harrison, Acting City Attorney
City of Vernon
4305 So. Santa Fe Avenue
Vernon, CA 90058
jharrison@karnskarabian.com

Michael Carroll, Counsel for Vernon
Latham & Watkins
650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
michael.carroll@lw.com

John Karns, Counsel for Vernon
Karns & Karabian
900 Wilshire Boulevard, Suite 530
Los Angeles, California 90017
jkarns@karnskarabian.com

INTERESTED AGENCIES

City of Huntington Park
Att: Albert Fontanez, Asst Planner
6550 Miles Avenue
Huntington Park, CA 90255
afontanez@huntingtonpark.org

City of Maywood
Att: Felipe Aguirre & Edward Ahrens
4319 E. Slauson Ave
Maywood Ca 90270
faguirre@cityofmaywood.com
eahrens@cityofmaywood.com

Electricity Oversight Board
Att: Eric Saltmarsh
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

John Yee & Chandrashekhhar Bhatt
South Coast Air Quality Mgmt. District
21865 E. Copley Drive
Diamond Bar, CA 91765-4182
jyee@aqmd.gov
cbhatt@aqmd.gov

City of Los Angeles
Jennifer Pinkerton
Environmental Affairs Department
200 N. Spring St., Rm. 2005, MS 177
Los Angeles, CA 90012
Jennifer.Pinkerton@lacity.org

INTERVENORS

California Unions for Reliable Energy
Marc D. Joseph & Gloria D. Smith
Adams Broadwell Joseph & Cardozo
601 Gateway Blvd., Suite 1000
South San Francisco, California 94080
gsmith@adamsbroadwell.com
mdjoseph@adamsbroadwell.com

Communities for a Better Environment
Bahram Fazeli
5610 Pacific Boulevard, Suite 203
Huntington Park CA 90255
bfazeli@cbecal.org

Communities for a Better Environment
Shana Lazerow & Philip Huang
1440 Broadway, Suite 701
Oakland, CA 94612
phuang@cbecal.org

ENERGY COMMISSION

Jackalyne Pfannenstiel, Chair
Presiding Committee Member
jpfannen@energy.state.ca.us
cgraber@energy.state.ca.us

James D. Boyd, Commissioner
Associate Committee Member
jboyd@energy.state.ca.us

Susan Geffer
Hearing Officer
sgeffer@energy.state.ca.us

James W. Reede, Jr., Ed.D
Siting Project Manager
jreede@energy.state.ca.us

Kenneth Celli
Staff Attorney
kcelli@energy.state.ca.us

Public Adviser
pao@energy.state.ca.us

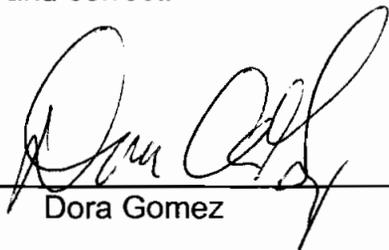
DECLARATION OF SERVICE

I, Dora Gomez, declare that on April 27, 2007, I deposited the required copies of the attached Letter from JMBM regarding Vernon Power Plant Project (06-AFC-4) 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.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

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



Dora Gomez