

DOCKETED

Docket Number:	07-AFC-06C
Project Title:	Carlsbad Energy Center - Compliance
TN #:	203166
Document Title:	1712 (b) Objection to Committee Prejudice of Petition to Intervene; etc.
Description:	N/A
Filer:	Robert Simpson
Organization:	Helping Hand Tools (2HT)
Submitter Role:	Public
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Docketed Date:	10/6/2014

STATE OF CALIFORNIA
Energy Resources Conservation

and

Development Commission

In the Matter of: Docket No. 07-AFC-06 and Docket No. 07-AFC-06C

1712 (b). OBJECTION TO COMMITTEE PREJUDICE OF MY PETITION TO INTERVENE

1207. APPEAL TO FULL COMMISSION OF DENIAL OF LEAVE TO FULLY INTERVENE

1220-1221. PETITION TO THE COMMISSION TO REQUEST RULEMAKING TO CHANGE 1769

PETITION TO FULLY INTERVENE

1720. MOTION FOR RECONSIDERATION OF ORDER

1716.5 PETITIONERS FURTHER MOTION AND A SPECIFIC SHOWING OF A COMPELLING INTEREST IN THE OTHER AREAS CONSIDERED IN THIS PROCEEDING

I began participating before the Commission in 2007. Since then I have participated in most power plant proceedings. Indeed the Commission would be challenged if it were compelled to identify a member of the public that has participated more than I, before the Commission. I offer expert witnesses on a variety of subjects, comprehensive testimony and legal representation when needed. The Commission has not shown me courtesy or given much consideration to my submissions. I have presented evidence to the Commission when projects violate the law, the Commission ignores this and licenses the facilities anyway. I then take my grievances to other venues and prevail. It is still unclear to me what benefit the Commission derives by licensing facilities that will never be built.

I am Executive Director of a non-profit organization with members concerned about the Commission's actions around the state. In the regular course of our business we educate members of the public about participation before the Commission.

When the Commission's ignorance of my participation crosses the line from disrespect to violation of the law I try to give the Commission the opportunity to correct their violation and if they decline I litigate. For instance in Quail Brush we are presently in court because the Commission repeatedly violated my Due Process rights.

In Quail Brush, responding to the applicant's second request to suspend the proceedings for a year; on April 22, 2014 I filed a MOTION TO DENY APPLICATION in it I pointed out that, "California has demonstrated that they have no need for this type of facility."

On April 24, 2014 without a hearing, the Order was published; "Granting Applicant's Second Request to Suspend Proceedings and Denying Intervenor Simpson/Helping Hands Tools Motions etc." The Order was based upon an absurd lack of logic and ignorance of the law. It states; "As for the requests for dismissal or denial of the AFC, and Simpson's motion to deny the AFC, a Committee decision on whether or not to recommend granting the project a license can only be based upon the evidentiary record to be developed at the Evidentiary Hearings, and those hearings cannot take place until Staff issues the Final Staff Assessment." The Order implied that Commission had no authority to regulate its proceeding and had to wait indefinitely until the Applicant decided to proceed. It stated; "Intervenor Simpson/Helping Hand Tools' motion to deny the AFC is DENIED as premature."

On May 25, 2014 I filed a timely MOTION AND PETITION FOR RECONSIDERATION in it I pointed to the authority; 1720.2. Termination of NOI, AFC, and SPPE Proceedings. (a) The committee or any party may, based upon the applicant's failure to pursue an application or notice with due diligence, file a motion to terminate the notice or application proceeding.

After 30 days without response I filed a number of public records requests to determine the status of my filings (exhibit 1). On July 24 2014 I filed a timely petition for writ of Mandate in the courts. On September 9, 2014 after many records requests to determine what occurred with my motion and petition. I was informed that my motion and petition were categorized as an appeal and therefore untimely. "*the determination categorizing your motion as an appeal was made on July 22, 2014*" Jared Babula. On September 12, 2014 the applicant withdrew his application apparently agreeing with my contentions in my original motion.

In Carlsbad I intervened in the proceeding in 2008 and fully participated through 2012. The Commission ignored my evidence that the facility would violate Federal Law and licensed the Facility. I took my grievances to the appropriate Federal venue and ensured that the facility would never be built as licensed. Carlsbad is now before the Commission for a modification.

The Commission failed to provide notice to me of the modification proceeding which was filed on April 29, 2014. When I discovered the proceeding through another venue, I objected on August, 01, 2014. I have had no response. I am hereby refile that objection. (exhibit 2)

As an intervener my position as a party should not have changed just because the project description did. Nevertheless I re-petitioned to intervene on August, 07, 2014. The Committee subsequently confirmed that I was not still considered an intervener at the Public Scoping Meeting and Committee Conference;

HEARING OFFICER KRAMER: Okay. The last point to make after the Public Advisor's presentation is that we are not carrying over intervenors from the past proceeding. So if you were an intervenor and you want to intervene again, you need to file a new petition. Terramar and Power of Vision have already done that, and they were approved to be intervenors again. Rob Simpson has just filed it yesterday; so it hasn't been ruled upon yet.

I requested that the Public Advisor, consistent with her mandate, express my points at the hearing, she declined. (exhibit 3) “2556. The Adviser's Duties in Advising Members of the Public. (j) Upon the request of public participants who may be absent from the commission's place of business or proceedings when a matter of interest to them is being considered, neutrally and publicly relate those participants' points to the commission.” I also sought her advice on a number of questions contained in the exhibit that have gone unanswered.

47 days later on September 23, 2014, I received the COMMITTEE ORDER PARTIALLY APPROVING ROB SIMPSON'S PETITION TO INTERVENE. (The 2 other interveners were granted full intervention in 16 and 20 days). I filed virtually exactly the same thorough petition that I successfully filed in 2007, in it I only recall changing the ages of my children. The Committee made no finding that I had not effectively participated in all aspects of the prior portion of the proceeding yet now limited my participation to air quality.

On September 26, 2014 the transcript of the closed COMMITTEE CONFERENCE MONDAY, AUGUST 25, 2014 was disclosed. It states; Among the items that the committee will deliberate on today are the question that was discussed at the last committee meeting in Carlsbad, whether to process the two amendments together or separately. Also the schedule for the case. And then finally the Petition to Intervene that was filed by Rob Simpson. And if anything else comes up along the lines I just described, they may consider that as well.

The Public Notice did provide notice that my petition and I would be on the agenda. It stated; “PLEASE TAKE FURTHER NOTICE that the Committee has scheduled an additional Committee Conference to deliberate in closed session on the question of whether the two pending petitions to amend should be processed together or separately...” Because there was no public notice, I was precluded from commenting on my own behalf in this conference. This led to further restrictions of my rights. The only way that the Commission can make this right is to rule in favor of my objections and allow unrestricted intervention. The Commission should also ensure that the delays have not prejudiced my participation. I should not have one day less than I would have had to consider the project, than if I had received timely notice of the Amendment.

The; COMMITTEE ORDER PARTIALLY APPROVING ROB SIMPSON'S PETITION TO INTERVENE *states*,

1. On August 7, 2014, a Petition to Intervene in the above-captioned proceeding was filed by:

Rob Simpson
27126 Grandview Avenue
Hayward CA 94542
510-909-1800
rob@redwoodrob.com

2. The Petition was timely filed and contains the information required by section 1207 of the Commission's regulations (Cal. Code Regs., tit. 20, § 1207);

3. No opposition to said Petition has been filed; and

4. Petitioner's interests are partially relevant to the above-captioned proceeding.

5. Petitioner describes his interests in general terms, citing “his First Amendment right to ‘petition the Government for a redress of grievances,’” “preserving the planet's ability to maintain human life,” “clean energy independence,” and “maintenance of a quality environment.” The only specific topic he cites is air quality and a desire that the Carlsbad

Energy Center employ “Best Available Control Technology, site specific integration and provides [sic] full mitigation for all air quality and other identified impacts.”

6. The interests of persons who reside in the project vicinity are represented by previously admitted Intervenors Power of Vision, Terramar Association, and Kerry Siekmann.

7. Petitioner does not reside in the project area or represent any organization with members who do. It is appropriate to limit his participation to those topic areas whose impacts can extend beyond the project vicinity—air quality, greenhouse gases, and public health

It is problematic to respond to such an ambiguous, arbitrary and capricious basis. It is unclear if the Commission is anointing the other intervenors with power to represent all other persons that reside in the area. Who would represent those that visit the area and have other interests in the matter? If the commission is claiming that this is a local land use issue, then it too should withdraw from the proceeding. When the State took jurisdiction of this project, it demonstrated that that this project was of statewide importance. As a resident of this state I have as much right to participate in the proceeding as neighbourhood residents. The other intervenors who were present when I originally intervened, have not participated in other proceedings before the Commission. They Cited no particular areas of interest in their, much less fulsome, petitions yet earned full participation.

My petition was clear that I wished to participate in the environmental aspects of the proceeding. There is no consideration of the biological aspects of the project (much like the first license of this facility). The Project impinges on the ocean waters of the US and sensitive biological resources. Air quality touches on all aspects of design alternatives and operation of the facility. I should not need to try and jockey my participation through air quality issues for instance, would air quality effects to biological resources be considered under my present status? Under the present scenario the persons in the neighbourhood are the only independent parties that the Commission will allow to participate regarding State and Federal matters

I object to the Committee prejudice of my petition. I wish to fully participate in all areas of the proceeding including but not limited to;

SITE CERTIFICATION PROCESS
PROCEDURAL HISTORY
COMMISSION OUTREACH.....
PROJECT DESCRIPTION
PROJECT ALTERNATIVES
ENGINEERING ASSESSMENT
FACILITY DESIGN
POWER PLANT EFFICIENCY
POWER PLANT RELIABILITY
TRANSMISSION SYSTEM ENGINEERING
TRANSMISSION LINE SAFETY AND NUISANCE
PUBLIC HEALTH AND SAFETY
GREENHOUSE GAS EMISSIONS
AIR QUALITY
PUBLIC HEALTH
SUMMARY AND DISCUSSION OF THE EVIDENCE
WORKER SAFETY/FIRE PROTECTION

HAZARDOUS MATERIALS MANAGEMENT
 WASTE MANAGEMENT
 ENVIRONMENTAL ASSESSMENT
 BIOLOGICAL RESOURCES
 SOIL AND WATER RESOURCES
 CULTURAL RESOURCES
 PALEONTOLOGICAL RESOURCES
 LOCAL IMPACT ASSESSMENT
 LAND USE.
 TRAFFIC AND TRANSPORTATION.....
 SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE
 NOISE AND VIBRATION
 VISUAL RESOURCES
 OVERRIDE FINDINGS

1221. Petitions.

(a) Any person may petition the commission to request rulemaking hearings. Such petition shall include:

- (1) the name, address, and telephone number of the petitioner; *Below*
- (2) the substance or nature of the regulation, amendment, or repeal requested;

The relevant portions of the below regulation require notice to the Post-certification mailing list when staff determines that the modification will have no impact but does not require staff to provide notice when the amendment may have an impact. It also gives no indication of who should be placed on the post-certification mailing list.

1769 H(2) Within 30 days after the applicant files a petition pursuant to subsection (a)(1) of this section, the staff shall review the petition to determine the extent of the proposed modifications. Where staff determines that there is no possibility that the modifications may have a significant effect on the environment, and if the modifications will not result in a change or deletion of a condition adopted by the commission in the final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no commission approval is required and the staff shall file a statement that it has made such a determination with the commission docket and mail a copy of the statement to each commissioner and every person on the post-certification mailing list. Any person may file an objection to staff's determination within 14 days of service on the grounds that the modification does not meet the criteria in this subsection.

(3) If staff determines that a modification does not meet the criteria in subsection (a)(2), or if a person objects to a staff determination that a modification does meet the criteria in subsection (a)(2), the petition must be processed as a formal amendment to the decision and must be approved by the full commission at a noticed business meeting or hearing. The commission shall issue an order approving, rejecting, or modifying the petition at the scheduled hearing, unless it decides to assign the matter for further hearing before the full commission or an assigned committee or hearing officer. The commission may approve such modifications only if it can make the following findings:

It seems that the Commission has processed many amendments without notice to those who have expressed an interest in the procedure. The following verbiage should be added to 1760

Notice of all proposed amendments or violations is to be communicated to the original service list and interested parties list for the license unless such parties have specifically requested to be removed from the notice list

- (3) the reasons for the request; *As above and attached*
 - (4) reference to the authority of the commission to take the action requested.
- Article 3. Rulemaking and Informational Hearings and Due Process*

(b) Such petition shall be filed with the executive director who shall within seven (7) days after its filing determine whether the petition contains the information specified in subsection (a).

(1) If the executive director determines that the petition is complete, he or she shall so certify in writing and shall inform the petitioner. (2) If the executive director determines that the petition is not complete, it shall be returned to the petitioner accompanied by a statement of its defects. The petitioner may correct the petition and resubmit it at any time.

(c) Upon certification by the executive director, the commission shall, within thirty (30) days from the filing of the petition, deny the petition, stating the reason for the denial in writing, or grant the petition, directing the staff to prepare an appropriate order pursuant to section 1222 of these regulations.

(d) Nothing in this section shall operate to limit the opportunity of any member of the public to be heard at commission meetings and hearings, as provided by section 25214 of the Public Resources Code.

Note: Authority cited: Section 25213, Public Resources Code. Reference: Sections 11347 and 11347.1, Government Code.

1716.5. Motions, Hearings, Decision.

Any party may file a motion or petition with the presiding member regarding any aspect of the notice or application proceeding. Responses to the petition by other parties shall be filed within 15 days of the filing of the petition unless otherwise specified by the presiding member. The presiding member may set a hearing to consider argument on the petition, and shall, within 30 days of the filing of the petition, act to grant or deny the petition, in whole or in part, or schedule further hearings or written responses on the petition.

Note: Authority cited: Sections 25213, 25218(e) and 25541.5, Public Resources Code. Reference: Sections 25210, 25502, 25519(b) and 25541, Public Resources

§ 1208. Conferences; Purpose; Notice; Order.

The presiding member or hearing officer may hold a conference with the parties, the public adviser, the chief counsel, and any other persons interested in the proceeding, at any time he deems necessary, for the purpose of formulating the issues, organizing the questioning of witnesses, determining the number of witnesses, providing for the exchange of exhibits or prepared statements, and such other matters as may expedite the orderly conduct of the proceedings. The public adviser may, upon request, present the views submitted by persons interested in the proceeding who are unable to attend.

(a) The conference shall be publicly noticed and the notice served in person or by mail on all parties at least ten (10) days before the conference.

(b) The presiding member may enter an order which specifies issues or states any other matter to aid in the orderly conduct of the hearing, and may, upon agreement of all the parties, accept stipulations of law or fact.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25214, Public Resources Code.

§ 1720. Reconsideration of Decision or Order.

(a) Within 30 days after a decision or order is final, the Commission may on its own motion order, or any party may petition for, reconsideration thereof. A petition for reconsideration must specifically set forth either: 1) new evidence that despite the diligence of the moving party could not have been produced during evidentiary hearings on the case; or 2) an error in fact or change or error of law. The petition must fully explain why the matters set forth could not have been considered during the evidentiary hearings, and their effects

upon a substantive element of the decision. In addition to being served on all parties as required by section 1210, the petition for reconsideration shall be filed with the chief counsel of the commission.

(b) The commission shall hold a hearing for the presentation of arguments on a petition for reconsideration and shall act to grant or deny the petition within 30 days of its filing. In the absence of an affirmative vote of three members of the commission to grant the petition for reconsideration, the petition shall be denied.

(c) If the commission grants a petition for reconsideration, or if on its own motion it orders reconsideration, then within 90 days, or within a longer period set by the commission for good cause stated, the commission shall hold a subsequent hearing, which may include the taking of evidence, and shall decide whether to change the decision or order. In the absence of an affirmative vote of three members of the commission to change the decision or order, it shall stand.

(d) The commission may stay the effective date of all or part of a decision or order pending reconsideration thereof. The commission shall specify the length of the stay, which shall expire no later than the end of the period for action upon reconsideration, as established in or pursuant to subdivision (c) of this section.

NOTE: Authority cited: Sections 25218(e) and 25541.5, Public Resources Code. Reference: Section 25530, Public Resources Code.

§ 1207. Intervenors.

(a) Any person may file with the Docket Unit or the presiding committee member a petition to intervene in any proceeding. The petition shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, address, and telephone number of the petitioner.

(b) In a power plant siting case, the petition shall be filed no later than the Prehearing Conference or 30 days prior to the first hearing held pursuant to sections 1725, 1748, or 1944 of this Chapter, whichever is earlier, subject to the exception in subsection (c) below. The petitioner shall also serve the petition upon the Applicant.

(c) The presiding member may grant leave to intervene to any petitioner to the extent he deems reasonable and relevant, but may grant a petition to intervene filed after the deadline provided in subdivision (b) only upon a showing of good cause by the petitioner. Any person whose petition is granted by the presiding member shall have all the rights and duties of a party under these regulations.

(d) Any petitioner who has been denied leave to intervene by the presiding member may appeal the decision to the full commission within fifteen (15) days of the denial. Failure to file a timely appeal will result in the presiding member's denial becoming the final action on the matter.

(e) Any petitioner may withdraw from any proceeding by filing a notice to such effect with the Docket Unit or presiding committee member.

Note: Authority cited: Section

1215. Interlocutory Orders and Appeals.

(a) During proceedings before a committee, a party may request that a ruling of the committee or presiding member be issued in the form of a written order. Any such request shall be made no later than five calendar days following the ruling.

(b) Any party may petition the full commission to review any order prepared pursuant to subsection (a) of this section. Any such petition shall be filed within ten days of the date of the order being issued; provided, however, that rulings of the presiding member or

committee may not be appealed during the course of hearings or conferences except in extraordinary circumstances where prompt decision by the commission is necessary to prevent detriment to the public interest. In such instances, the matter shall be referred forthwith by the presiding member to the commission for determination.

(c) Unless the commission acts upon questions referred by the presiding member to the commission or upon a petition to review an order of the presiding member or committee within thirty (30) days after the referral or filing of the petition, whichever is later, such referrals or petitions shall be deemed to have been denied. The commission may act by formally denying the petition or by vacating or amending the committee order.

Note: Authority cited: Section 25218(e), Public Resources Code. Reference: Section 25210, Public Resources Code.

To avoid any further procedural wrangling I have expressed my chagrin in as many categories as possible. The entirety of this filing should be considered under each of the indicated provisions Title 20 of the California Code of Regulations and other applicable law.

Hereby Submit by Helping Hand Tools and Rob Simpson,

Rob Simpson
Executive Director
Helping Hand Tools (2HT)
27126 Grandview Avenue
Hayward CA 94542
510-909-1800
rob@redwoodrob.com

Exhibit 1

----- Original Message -----

Subject: RE: [Public Records Act Requests]

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Tue, September 09, 2014 2:13 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Cc: Andrew Kingsdale <andrew@kingsdale-law.com>

Mr. Simpson,

Between the responses in my emails, the emails from the Public Advisor and the documents provided I thought all of your questions have been addressed. I have again attempted to respond to your questions. Thanks

Jared

- 1. Your prior communication states that you had additional communications that you were processing. I have not received them but would like to.**

I have provided you with all responsive non-privileged materials.

- 2. Can you clarify if and when my motion was categorized as an appeal? Was it after your statement;**

"What is the plan regarding his motion? Are we going to tell him the motion was not served correctly or that it was late because it was an appeal of a committee order which is only 15 days?"

As I noted before and as evidenced in the documents provided, the hearing office, in consultation with the Chief Counsel's office, handles procedural issues related to filings in power plant proceedings and found your motion late. In addition to the document being late it was never served. Please see http://www.energy.ca.gov/commission/chief_counsel/documents/Docket_Service_Form_CEC-108_Instructions.pdf for instructions on how to serve different pleadings. These instructions were also incorporated into the Revised General Orders in Quail Brush. From the documents produced it looks like the determination categorizing your motion as an appeal was made on July 22, 2014.

- 3. Shall I take the response to mean that the motion and petition were both deemed late?**

I am not sure what you mean by petition. Your motion was not served but nevertheless upon the hearing office reviewing it, found it was late.

4. Please identify how many emails that you are withholding from disclosure, their dates, parties included in the communications and either confirm that you are claiming that the entirety of the emails are exempt from disclosure or produce the portions that are not.

As noted before three emails between the hearing office and the chief counsel's office related to your motion are responsive, but those will not be produced under the attorney client and attorney work product exemption of the Evidence Code section 954, Code of Civil Procedure section 2018 and Government Code section 6254(k). The emails in their entirety contain communications between Commission legal counsel and hearing office and include the advice and impressions of legal counsel. Other than these three emails, all other responsive documents have been produced. The dates of the emails are May and July of 2014.

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Monday, September 08, 2014 7:42 PM
To: Babula, Jared@Energy
Cc: Andrew Kingsdale
Subject: RE: [Public Records Act Requests]

Mr. Babula,

I never received a response to the below communication. To restate;

1. Your prior communication states that you had additional communications that you were processing. I have not received them but would like to.
2. Can you clarify if and when my motion was categorized as an appeal? Was it after your statement;

"What is the plan regarding his motion? Are we going to tell him the motion was not served correctly or that it was late because it was an appeal of a committee order which is only 15 days?"

4. Shall I take the response to mean that the motion and petition were both deemed late?

5. Please identify how many emails that you are withholding from disclosure, their dates, parties included in the communications and either confirm that you are claiming that the entirety of the emails are exempt from disclosure or produce the portions that are not.

thank you
Rob Simpson

----- Original Message -----

Subject: [Public Records Act Requests]

From: <rob@redwoodrob.com>

Date: Wed, August 20, 2014 7:52 pm

To: "Jared@Energy Babula" <Jared.Babula@energy.ca.gov>

Cc: "Andrew Kingsdale" <andrew@kingsdale-law.com>

Hi,

I re-pasted your response in context of the communications below. I'll thank you for keeping everything in one email thread. Your prior communication states that you had additional communications that you were processing. I have not received them but would like to. Also you did not directly answer question number 4-5. I read that my petition was considered an appeal in the emails that you forwarded to me. Am I correct in reading your response you are telling me now that my motion was also considered an appeal by the hearing office? If so was it after your July 24 communication pasted directly below? I see that you indicated that 3 emails were withheld but have not received the dates, parties involved or confirmation that the entire emails are protected.

rob

From: Babula, Jared@Energy

Sent: Thursday, July 24, 2014 9:47 AM

To: Ogata, Jeffery@Energy; Renaud, Raoul@Energy; Mathews, Alana@Energy; Roberts, Blake@Energy; Dyer, Deborah@Energy

Subject: FW: Public Records Act Requests

For now I told Mr. Simpson that I am still working on this. I have provided him with the court records from the CBD/CBE litigation which was part of his request. **What is the plan regarding his motion? Are we going to tell him the motion was not served correctly or that it was late because it was an appeal of a committee order which is only 15 days?**

Mr. Simpson,

This email is to close out your second public records request and to summarize responses to your various questions that hopefully have all been addressed. I have now provided you a total of 17 documents in response to your three requests covering documents related to the CBD/CBE litigation, to your initial motion for reconsideration and documents related to the Commission's review of your records request. As noted before three emails between the hearing office and the chief counsel's office related to your motion are responsive, but those will not be produced under the attorney client and attorney work product exemption of the Evidence Code section 954, Code of Civil Procedure section 2018 and Government Code section 6254(k). The emails contain communications between Commission legal counsel and hearing office and include the advice and impressions of legal counsel. Other than these three emails, all other responsive documents have been produced.

I think most of these questions have been addressed either in prior emails or in the documents produced. But just in case I have provided responses.

I cannot determine from the response if the Public advisers response is considered an agency response, can you clarify?

The response from the Public Advisor was based on a determination from the hearing office as to your motion. Please see the most recently produced documents.

Please identify who deemed my motion late and when that occurred with any records of the determination.

As evidenced in the documents provided, the hearing office, in consultation with the Chief Counsel's office, handles procedural issues related to filings in power plant proceedings and found your motion late. In addition to the document being late it was not served correctly. Please

see http://www.energy.ca.gov/commission/chief_counsel/documents/Docket_Service_Fo

[rm_CEC-108_Instructions.pdf](#) for instructions on how to file different pleadings. These instructions were also incorporated into the Revised General Orders in Quail Brush. From the documents produced it looks like the determination was made on July 22, 2014.

Please identify who re-categorized my motion and petition as an appeal under section 1215 and when that occurred with any records of the determination.

I would not say the filing was re-categorized more along the lines of trying to figure out where it best fit. The hearing office would be the division to handle filings related to power plant proceedings and determined the motion was closest to an appeal.

Hopefully all your outstanding issues have been addressed. Please contact me if you have any other questions.

Sincerely,

Jared Babula

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Thu, August 14, 2014 9:05 am

To: "rob@redwoodrob.com" <rob@redwoodrob.com>, Andrew Kingsdale <andrew@kingsdale-law.com>

Rob,

Here are some responsive emails to your records request. I have a few more I am reviewing and will have those processed shortly. Thanks

Jared

----- Original Message -----

Subject: RE: Public Records Act Requests

From: <rob@redwoodrob.com>

Date: Sat, August 09, 2014 9:35 am

To: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Hi,

You are certainly welcome to discuss the concept of a suspension or anything else with my attorney or me, although I do not think that any of my communications addressed the concept. I think that I am pretty clear on what it means. I would be more interested in responses to my questions.

Thanks

Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Wed, August 06, 2014 2:47 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>, Andrew Kingsdale <andrew@kingsdale-law.com>

Cc: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Mr. Simpson,

Thanks for putting everything into one email. I will need to look into what documents/communications we have in response to your most recent request. Regarding your questions I don't know all the details so I will have to look into those but I do know from Ms. Mathews summary that no further action is occurring on your motion/appeal. At this point since we seem to be going around in circles a bit and I think there is a misunderstanding of the underlying concept of a suspension, it may make sense for me to contact your attorney, Mr. Kingsdale to discuss. Let me look into your document issue and then I will touch base with Mr. Kingsdale early next week. Thanks

Jared

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Tuesday, August 05, 2014 9:38 PM
To: Babula, Jared@Energy; Andrew Kingsdale
Cc: Mathews, Alana@Energy
Subject: Public Records Act Requests

Hello Sir,

Thanks for trying to help sort this out. Yes I am trying to get all records regarding my motion, petition and records requests to date. I am also seeking a response to the questions below (which I have now numbered)

1. I can not determine from the response if the the Public advisers response is considered an agency response, can you clarify? or do you concur with their response?
2. Please identify who deemed my motion late and when that occurred with any records of the determination.
3. Please identify who re-categorized my motion and petition as an appeal under section 1215 and when that occurred with any records of the determination.
4. Shall I take the response to mean that the motion and petition were both deemed late?
5. Please identify how many emails that you are withholding from disclosure, their dates, parties included in the communications and either confirm that you are claiming that the entirety of the emails are exempt from disclosure or produce the portions that are not.

Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Tue, August 05, 2014 3:49 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>, Andrew Kingsdale <andrew@kingsdale-law.com>

Cc: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Mr. Simpson,

It does look like your request was cut off. To try and respond regarding the records request. There was one email chain, dated May 28, between the hearing office and the chief counsel's office, that has been withheld. So this one email would represent all records related to the motion that was docketed in May.

Now to clarify, are you asking for all communications related to your July public records request and your inquiry about your May 28 motion?

Thanks

Jared

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Monday, August 04, 2014 4:48 PM

To: Babula, Jared@Energy; Andrew Kingsdale

Cc: Mathews, Alana@Energy

Subject: RE: Public Records Act Requests

Mr. Babula,

I too am confused. It is the first line in the communication that is unanswered.

provide any records of any communications regarding my request below between the public advisers office and any others.

The question is updated and restated in my last communication;

Please provide copies of all internal communications within the Public advisers office and communications between the public advisers office and Chief Counsel's Office and the Hearing Office or others regarding my requests.

I can not determine from the response if the the Public advisers response is considered an agency response, can you clarify? or do you concur with their response?

Also it appear that the public records portal cut off the balance of the communication which included all of our communications to date. Perhaps there is a word limit, I will test it by trying to send this communication through the portal. (yes I just sent this entire thread, received the opportunity to review the entire communication and received back only the first few paragraphs which I have since reworded a bit.)

Thank you
Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Sun, August 03, 2014 9:07 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>, Andrew Kingsdale <andrew@kingsdale-law.com>

Cc: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Mr. Simpson,

I am not clear what additional records request you are referring to. The July 14 submission I received was a little confusing but appeared to just request I respond to your prior request, which I was working on already. That request was for documents related to your motion to reconsider and all filings in the CBD/CBE litigation. That was the request I have responded to. I copied the July 14 submission as I received it below so you can see.

Thanks

Jared

First Name: Robert
Last Name: Simpson
Email address: rob@Redwoodrob.com
Company: Helping Hand Tools
Address: 27126 Grandview avenue
City: hayward
State: ca
ZipCode: 94542
Phone No: 5106888166

Requested Action: Hello Please respond to the public records request and questions below. Also provide any records of any communications regarding my request below between the public advisers office and any others.

Thank you
Rob Simpson

Mr, Babula,
Please respond to the public records act request and questions below.

Mr. Roberts,
Yes I still have the same questions that you did not answer below. Please respond. I noticed that you forwarded your response to Mr. Babula below but did not include my original request so I attached it in context below.

Thank you
Rob Simpson

From: rob@redwoodrob.com [rob@redwoodrob.com]

Sent: Friday, August 01, 2014 11:30 AM

To: Babula, Jared@Energy; Andrew Kingsdale

Cc: Mathews, Alana@Energy

Subject: Public Records Act Requests

Mr. Babula and Ms Mathews,

Thank you for the responses. No one has addressed the additional records request included in my July 14 submission through the records request portal. Please identify who deemed my motion late and when that occurred with any records of the determination. Please identify who re-categorized my motion and petition as an appeal under section 1215 and when that occurred with any records of the determination. Shall I take the response to mean that the motion and petition were both deemed late? Please identify how many emails that you are withholding from disclosure, their dates, parties included in the communications and either confirm that you are claiming that the entirety of the emails are exempt from disclosure or produce the portions that are not. It is difficult to determine from the public advisers response if the opinions are those of the adviser or simply relayed from other communications. Please provide copies of all internal communications within the Public advisers office and communications between the public advisers office and Chief Counsel's Office and the Hearing Office or others regarding my requests.

Rob Simpson
cc Andrew Kingsdale Counsel

----- Original Message -----

Subject: FW: Public Records Act Requests
From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>
Date: Tue, July 29, 2014 12:31 pm
To: "rob@redwoodrob.com" <rob@redwoodrob.com>
Cc: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>, "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Mr. Simpson,

As indicated by Ms. Mathews, she addressed the state of your motion. Regarding the public records request. I have produced all responsive materials, 14 documents, related to your request for filings in the CBD/CBE litigation against the Energy Commission.

Because your motion was deemed late, there does not appear to be any discussions that generated documents responsive to your request seeking materials related to your motion. There were a few emails between the hearing office and the chief counsel's office related to your motion but those will not be produced under the attorney client and attorney work product exemption of the Evidence Code section 954, Code of Civil Procedure section 2018 and Government Code section 6254(k). The emails contain communications between Commission legal counsel and hearing office and include the advice and impressions of legal counsel. I believe at this point all your questions mixed in with your records request have been answered either in my original response or in Ms. Mathews' email below. This concludes the Commission's review of your request. Please contact me if you have any questions.

Sincerely,

Jared Babula

From: Energy - Public Adviser's Office
Sent: Tuesday, July 29, 2014 11:43 AM
To: rob@redwoodrob.com
Cc: Babula, Jared@Energy
Subject: RE: Public Records Act Requests

Good Morning Mr. Simpson:

First I would like to thank you for your patience in this matter. After receiving your email dated July 3, 2014 it took some time to research that matter to ensure that my office adequately responded to your request. Blake Roberts initially looked into the matter but eventually elevated to me and I consulted with numerous staff members to better understand your concerns and gather information to help address them.

I understand from your original email inquiry that you had several concerns regarding your Motion and Petition for Reconsideration submitted May 25, 2014. Although these concerns were intertwined in your Public Records Act (PRA) request, I have done my best to bifurcate the inquiries my office can address. As Mr. Roberts' reply dated July 9, 2014 indicates, the proper contact for your PRA request is Jared Babula so for purpose of this email, the information I am providing you is

limited to procedural clarifications to the procedural concerns you raised. These concerns include an inquiry of whether your motion and petition were:

- Seen by the Commissioners
- Considered by the Commissioners
- Rejected by the Commission, and
- What recourse you may have

After discussions with the Chief Counsel's Office and the Hearing Office, I have learned of the following information which may better clarify the Commission procedure and address the aforementioned concerns. With regard to your motion and petition:

- Reconsideration applies only to Commission decisions, not Committee decisions. The April 14, 2014 order granting the second request to suspend proceedings in the Quail Brush siting matter was a Committee decision and not a Commission decision.
- CEC Regulations section 1215 does provide a right of appeal of Committee decisions to the full Commission, with a ten-day filing deadline.
- Your motion and petition were construed as an appeal.
- As an appeal, it was filed late (30 days, rather than the required 10 days after the order) and is therefore untimely. Even if filed timely, the appeal is considered denied by the passage of time without Commission action.

I hope this answers your concerns and if you have any additional questions or follow up please contact my office again.

Alana Mathews
Public Adviser
California Energy Commission

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Wednesday, July 23, 2014 11:39 AM

To: Babula, Jared@Energy; listennergia@energy.state.ca.us; Energy - Public Adviser's Office; Roberts, Blake@Energy

Cc: Tran, Muoi-Lynn@Energy; Energy - Mediaoffice; Dyer, Deborah@Energy

Subject: Public Records Act Requests

Despite 3 weeks of requests I still have no substantive response to;

PUBLIC RECORDS REQUEST.

Please provide any records regarding my motion and petition. Has it been seen by the commissioners? Considered? any staff, counsel or applicant recommendations, any communications whatsoever regarding my filing etc.

Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Wed, July 16, 2014 1:07 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Mr. Simpson,

Attached are responsive documents related to your request about the CBD/CBE litigation. Thanks

Jared

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Wednesday, July 16, 2014 5:14 AM

To: Babula, Jared@Energy; Roberts, Blake@Energy

Cc: akingsdale@gmail.com; Dyer, Deborah@Energy

Subject: RE: Public Records Act Requests

Mr. Babula,

I have received no substantive response from the Public Advisers office beyond the below. Yes I wish that the suspension be reconsidered and the AFC dismissed pursuant the authority identified and to understand the status of my motion. No one contacted me after the motion was filed. Thank you for your response and any further info that you could provide.

Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act Requests

From: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>

Date: Tue, July 15, 2014 7:25 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Cc: "akingsdale@gmail.com" <akingsdale@gmail.com>, "Dyer, Deborah@Energy" <Deborah.Dyer@energy.ca.gov>

Mr. Simpson see responses below:

I am an intervener in the Quail Brush matter. I filed a ;

MOTION AND PETITION FOR RECONSIDERATION

The Commission has not responded. My understanding is that this represents a rejection of the petition. Is that correct? What recourse do I have?

This is not really a records request. Is the public advisor assisting you on this part? I see you filed your motion in May and it is on the Quail Brush docket log so it was received. So you are asking to reconsider a suspension and have the Committee dismiss the AFC. Did anybody contact you after your motion was filed?

PUBLIC RECORDS REQUEST.

Please provide any records regarding my motion and petition. Has it been seen by the commissioners? Considered? any staff, counsel or applicant recommendations, any communications whatsoever regarding my filing etc.

Your motion for reconsideration can be found

at: [http://docketpublic.energy.ca.gov/PublicDocuments/11-AFC-](http://docketpublic.energy.ca.gov/PublicDocuments/11-AFC-03/TN202379_20140525T131208_Quail_bush_reconsideration.pdf)

03/TN202379_20140525T131208_Quail_bush_reconsideration.pdf I dont know the answer to your questions and will have to check to see if there are any responsive materials.

Please identify any authority for the commission to suspend the proceeding as occurred in this proceeding.

This again is not really a records request but the Commission has authority to manage proceedings as necessary. See Title 20 sections 1203, 1204, 1205, 1208, 1719. These sections will cite to the Public Resources Code so you can also look at the statutory authority.

Communities for a Better Environment (CBE) and Center for Biological Diversity (Center) filed suit on May 29, 2013 to challenge the constitutionality of a provision of California law that requires appeal directly to the California Supreme Court of any decision on a thermal power plant license by the California Energy Commission. Please provide copies of any filings in this proceeding by any party.

I will have to check on what filings have been made. I am not involved with that suit but I think it was dismissed. I am not sure if that was on a demur or summary judgment. I will be back in the office tomorrow and will see what materials I can locate. Thanks

Jared

From: rob@redwoodrob.com [rob@redwoodrob.com]
Sent: Monday, July 14, 2014 10:11 AM
To: Energy - Public Adviser's Office
Cc: Babula, Jared@Energy; akingsdale@gmail.com
Subject: RE: Public Records Act Requests

Mr, Babula,
Please respond to the public records act request and questions below.
Mr. Roberts,
Yes I still have the same questions that you did not answer below. Please respond. I noticed that you forwarded your response to Mr. Babula below but did not include my original request so I attached it in context below.
Thank you
Rob Simpson

----- Original Message -----
Subject: Public Records Act Requests
From: Energy - Public Adviser's Office <PublicAdviser@energy.ca.gov>
Date: Wed, July 09, 2014 12:37 pm
To: "rob@redwoodrob.com" <rob@redwoodrob.com>
Cc: "Babula, Jared@Energy" <Jared.Babula@energy.ca.gov>, "akingsdale@gmail.com" <akingsdale@gmail.com>

Dear Mr. Simpson,

Since the Public Adviser's Office does not manage Public Records Act requests, we ask that you either (1) send your requests directly to Jared Babula (jared.babula@energy.ca.gov) in the Chief Counsel's Office or (2) fill out the PRA request form on our website (http://www.energy.ca.gov/public_records/).

Please let me know if you have any questions.

Sincerely,

Blake Roberts, Ph.D.

Assistant Public Adviser
California Energy Commission
1516 Ninth Street, MS #12
Sacramento, CA 95814-0027
916.654.4489
blake.roberts@energy.ca.gov

Dear Mr. Simpson,

I wanted to acknowledge that our office has received your email and we are currently reviewing your requests. We will get back to you shortly.

Sincerely,

Blake Roberts, Ph.D.

Assistant Public Adviser
California Energy Commission
1516 Ninth Street, MS #12
Sacramento, CA 95814-0027
916.654.4489
blake.roberts@energy.ca.gov

From: rob@redwoodrob.com[<mailto:rob@redwoodrob.com>]

Sent: Thursday, July 03, 2014 8:13 PM

To: Energy - Public Adviser's Office

Cc: Andrew Kingsdale

Subject: Quail brush question and records request

Hello Public Advisers office,

I am an intervener in the Quail Brush matter. I filed a ;

202379 5/26/2014

[Response: April 14, 2014 Order Granting Second Request to suspend Proceedings](#)

MOTION AND PETITION FOR RECONSIDERATION

The Commission has not responded. My understanding is that this represents a rejection of the petition. Is that correct? What recourse do I have?

PUBLIC RECORDS REQUEST.

Please provide any records regarding my motion and petition. Has it been seen by the commissioners? Considered? any staff, counsel or applicant recommendations, any communications whatsoever regarding my filing etc.

Please identify any authority for the commission to suspend the proceeding as occurred in this proceeding.

Communities for a Better Environment (CBE) and Center for Biological Diversity (Center) filed suit on May 29, 2013 to challenge the constitutionality of a provision of California law that requires appeal directly to the California Supreme Court of any decision on a thermal power plant license by the [California Energy Commission](#). Please provide copies of any filings in this proceeding by any party.

Please include my Staff Attorney Andrew Kingsdale in our communications.

Thank you

Rob Simpson
Executive Director
Helping Hand Tools

Exhibit 2

STATE OF CALIFORNIA
Energy Resources Conservation
and
Development Commission

In the Matter of: Docket No. 07-AFC-06 and Docket No. 07-AFC-06C

**Petition to Remove Obsolete Facilities
to Support Construction of the Carlsbad
Energy Center Project**

and

**Petition to Amend the Carlsbad Energy
Center Project**

**OBJECTION TO PROCEEDING WITHOUT NOTIFICATION TO INTERVENERS AND
AGGRIEVED MEMBERS OF THE PUBLIC**

It has come to my attention that the Commission has commenced proceedings and made decisions regarding the above referenced application without notice to the interveners or the interested public. The interveners and other members of the public clearly sought a redress of our grievances regarding this potential project. The Commission had no right to derail public participation by convening a proceeding regarding the application without notice to those who have demonstrated a clear interest. The Commission may have the authority to create a post-certification mailing list but it certainly does not have the authority to omit the pre-certification mailing and service list from notice of its proceeding. The public and interveners were not informed that they would have to reiterate their interest in some shell game each time some letter is added to the proceeding name or applicant wishes to make the project dirtier. Intervenors should not need to reintervene. It appears from the, Solicitation For Agency Participation in the Review of Amendment and list of property owners that the that the Commission understands some of its duties. Also In 2012, after the project was approved, the City of Carlsbad's petition to the Supreme Court was posted on the proceeding

docket and served to the parties. In June of 2013, two years after the project was approved, the Air District Authority to Construct extension was posted on the original docket and served to the parties, yet in this highly significant modification of the proposed project the commission has not recognized its duty to serve the parties to the original proceeding and provide notice to those who have demanded it.

The Commission should immediately take steps to mitigate this audacious violation of the public's Federal Due Process rights.

These steps should include;

- Providing members of the public who expressed a grievance, with the underlying action, notice of the present proceeding(s).
- Adding the parties to the original proceeding to the service list.
- Serving the parties to the original proceeding all documents related to the amendment(s).
- If the Commission somehow does not consider the parties to the original proceeding to be parties to the amendment; the Commission should identify the legal authority for this assumption and allow the original parties adequate time to re-establish party status.
- Allow adequate time for parties and the public to review the docket and opine
- Rescinding all decisions made in the amendment proceeding(s) in favor of a venue which allows stakeholders an opportunity to influence decisions.
- Promulgate rules that prevent this sort of injustice in the future.

Submitted by

Rob Simpson

Intervener Rob@redwoodrob.com

Exhibit 3

----- Original Message -----

Subject: RE: request for advise on participating

From: <rob@redwoodrob.com>

Date: Thu, August 07, 2014 7:03 pm

To: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

I am in Australia right now. This may be why the webex does not function for me. The cost of sitting on the phone for extended period of time is prohibitive. If you do not have a representative at the meeting or someone that can connect and complete the duty and if the rule 2556 regarding the public adviser is inapplicable then I guess that we have done all that we can. It is unfortunate to have this info at the last minute. I was in touch with local members of the public today that may have completed the task.

Rob

----- Original Message -----

Subject: RE: request for advise on participating

From: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Date: Thu, August 07, 2014 6:44 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Yes. The Public Adviser's office does not have the capacity to read or cause to be read comments of members of the public. What we can do is direct you to the available resource- which is the e-commenting system to ensure that your comments are a part of the record and considered by the Committee. Since you seem to want you comments heard today, I have decided to stay late to help you connect. I have connected via several computers and phone lines without problem and that is why I offered for you to call my office so that I could walk you through the process to ensure you are dialing the correct numbers. If you have a number where I can reach you I can connect you via conference call.

Alana Mathews

Public Adviser

California Energy Commission

Tel: 916.654.4489

Toll Free (CA only): 800-822-6228



 Save the Earth, one page at a time. Please consider the environment before printing this email.

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Thursday, August 07, 2014 6:31 PM

To: Mathews, Alana@Energy

Subject: RE: request for advise on participating

I have tried. Is there a reason that you can not cause my comments to be read at the proceeding?

Thanks

Rob

----- Original Message -----

Subject: RE: request for advise on participating

From: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Date: Thu, August 07, 2014 6:22 pm

To: "rob@redwoodrob.com" <rob@redwoodrob.com>

That is the correct number. I am happy to walk you through connecting if you would like to call the PAO 916-654-4489. I am staying late to try and offer you assistance to connect so that you can give your comments. Otherwise you will have to submit them through the e-commenting system. But I think we can get you connected. ☺ They have not started public comment yet

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Thursday, August 07, 2014 6:17 PM
To: Mathews, Alana@Energy
Subject: request for advise on participating

I used the numbers listed in the notice that is posted on the commission website for this proceeding
Site Visit and
Committee Conference
Thursday, August 7, 2014
4:30 p.m.
922 232 237 pwd#1516
Committee Conference Monday, August 25, 2014
1:30 p.m.
920 049 391 pwd#1516

Please also note that I am not asking you to be my legal representative merely to complete your duties. My request for you to present my points to the commission is pursuant;

§ 2556. The Adviser's Duties in Advising Members of the Public.
(j) Upon the request of public participants who may be absent from the commission's place of business or proceedings when a matter of interest to them is being considered, neutrally and publicly relate those participants' points to the commission.

Thank you
Rob Simpson

----- Original Message -----

Subject: RE: request for advise on participating
From: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>
Date: Thu, August 07, 2014 5:56 pm
To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Thank you for resending that. I am not sure why I didn't get your earlier email. I was able to connect via webex- and am currently listening to the hearing. Can I ask what number you were using?. They have not started public comment so you still have time to connect. Would you like to try again.

*Alana Mathews
Public Adviser
California Energy Commission
Tel: 916.654.4489
Toll Free (CA only): 800-822-6228*

 Save the Earth, one page at a time. Please consider the environment before printing this email.

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Thursday, August 07, 2014 5:43 PM

To: Mathews, Alana@Energy
Subject: RE: request for advise on participating

below is the request to read my objection which is the same objection that we have been discussing, I filed and sent you a copy which I will resend. The webex numbers do not function to access the hearing.

Rob Simpson

----- Original Message -----

Subject: RE: request for advise on participating
From: <rob@redwoodrob.com>
Date: Thu, August 07, 2014 2:06 am
To: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>

Hello,

Thank you for the response. I understand that your contentions but am afraid that some of your response is a bit general for me, so I reiterate.

1. Is there a rule that I need to re-apply as an intervener?
2. Are there rules which would require the public to reiterate their interest in the proceeding?
3. Does the Commission have the authority to proceed without notice to those who participated in the original proceeding.

4. Also should the public adviser have a role in ensuring that those who participated in original proceedings receive notice of modifications or in recommending to the commission that it include those who participated in original proceedings in modifications?

I will be unable to attend the meeting, Please read my objection onto the record. I will send an application for intervention. First also please read the below statement onto the record.

The City of Carlsbad capitulation to the facility for visual benefits is shortsighted. While shorter smokestacks may lesson the visual impact; it multiplies the public health impacts. Shorter smokestacks fail to send pollution high enough into the air to allow it to dissipate some instead of poisoning the local community more. These impacts are multiplied by the new peaker design which will cause the facility to start and stop more and operate at lower loads. The turbines pollute more during start up when pollution control equipment is not functioning. When turbines operate at low loads they are less efficient and also pollute more. There will be incomplete combustion emitting lower velocity toxic emissions directly into the community.

Thank you
Rob Simpson

----- Original Message -----

Subject: RE: request for advise on participating
From: "Mathews, Alana@Energy" <Alana.Mathews@energy.ca.gov>
Date: Wed, August 06, 2014 3:44 pm
To: "rob@redwoodrob.com" <rob@redwoodrob.com>

Good Afternoon Mr. Simpson,

In response to your email below, I am providing you with a link to the Public Adviser's website which explains how you may participate in the Carlsbad Energy Center Proceeding. <http://www.energy.ca.gov/2006publications/CEC-700-2006-002/CEC-700-2006-002.PDF>

In summary, as you may already know, you can participate formally as an Intervenor, or you can participate informally as a member of the public or interested party. Specifically, Chapter 6 of the Public Participation Guide focuses on intervention and how to become an intervenor. Each new filing establishes a new proceeding and you will have to submit a new petition to intervene to the newly appointed Committee. The general requirements for a Petition to Intervene are applicable to all petitions and is not altered because a previous petition was filed. If you have not already done so, I would recommend that you docket the objection you attached to your email below to ensure that the Hearing Officer and the Committee Members receive it. If you are planning to attend the Informational Hearing, there will be a set time for public comment. You may express your concerns at that time as well. Thank you and please let me know if you have any additional questions.

*Alana Mathews
Public Adviser
California Energy Commission
Tel: 916.654.4489
Toll Free (CA only): 800-822-6228*

 Save the Earth, one page at a time. Please consider the environment before printing this email.

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Friday, August 01, 2014 11:39 AM
To: Mathews, Alana@Energy
Subject: request for advise on participating

Ms. Mathews,
Can you advise me on how to participate in the Carlsbad Energy Center proceeding? Is there a rule that I need to re-apply as an intervenor? Are there rules which would require the public to reiterate their interest in the proceeding? Does the Commission have the authority to proceed without notice to those who participated in the original proceeding. Attached please find a better articulation of my concerns as filed today.
Thank you
Rob Simpson