



City of Victorville

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March 28, 2013

Dockets Unit
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, CA 95814

California Energy Commission

DOCKETED
07-AFC-1C

TN # 70186

MAR. 28 2013

Subject: CITY OF VICTORVILLE'S PETITION FOR EXTENSION OF THE CONSTRUCTION DEADLINE; VICTORVILLE 2 HYBRID POWER PROJECT; DOCKET NO: (07-AFC-1)

Enclosed for filing with the California Energy Commission (CEC) is the **CITY OF VICTORVILLE'S PETITION FOR EXTENSION OF THE CONSTRUCTION DEADLINE** for the **VICTORVILLE 2 HYBRID POWER PROJECT (07-AFC-1)**. Per the standing order regarding the filing of documents with the CEC (Docket No. 11-GEN ADMIN-01), this filing is being submitted in electronic format only.

Please contact me at (760) 955-5029, or Jenele Davidson at (760) 243-6343, with any questions regarding this petition.

Sincerely,

Douglas B. Robertson
City Manager

DBR:jd

cc: Mary Dyas; CEC Compliance Project Manager
Andre de Bortnowsky; Green, de Bortnowsky & Quintanilla, LLP



STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:

DOCKET NO: (07-AFC-1)

VICTORVILLE 2 HYBRID POWER PROJECT

**CITY OF VICTORVILLE'S PETITION FOR
EXTENSION OF THE CONSTRUCTION
DEADLINE**

INTRODUCTION

Pursuant to Section 1720.3 of the California Energy Commission (CEC) Rules of Practice and Procedure, the City of Victorville (the City) hereby requests a five (5) year extension of the deadline for the commencement of construction for the Victorville 2 Hybrid Power Project (Victorville 2 or the Project). The City has invested a significant amount of money and resources in connection with the permitting of Victorville 2, only to have its efforts derailed by the impacts of the significant national recession. It is now seeking CEC support in obtaining an extension that will enable it to recapture all or a significant portion of its prior investment, while also enabling the expedited development of a shelf-ready project at such time as the market requires a new source of economical electric energy.

BACKGROUND

On February 28, 2007, the City filed an Application for Certification (AFC) with the CEC to construct and operate Victorville 2, a 563 megawatt (MW) hybrid natural gas-fired combined cycle and solar thermal power plant. The Project is located at the Southern California Logistics Airport on a 300 acre site, in Victorville, California. On July 16, 2008, by adoption of Order No. 08-0716-2, the CEC issued its final decision (Decision) approving the AFC and granting the City a certificate to construct and operate the Project.

The development plan adopted by the City was to take all steps required to bring the Project to a "build ready" state and then seek investors to assume an ownership position in all or at least a significant portion of the Project. The benefits to the City were many, including the creation of new and well-paying jobs at the plant, the potential of providing electrical power at competitive rates to customers of the City's newly created municipal utility, enhancement of the City's ability to attract new businesses and related jobs, and

significant tax revenues for use in further economic development and investment in housing.

The City previously facilitated the development of Victorville 1, also known as the “High Desert Power Plant”, which is currently in operation and which helped the City jump-start its economic redevelopment activities at the former George Air Force Base, now known as the Southern California Logistics Airport (SCLA). The City’s experience with Victorville 1 leaves it well positioned to ensure the successful development of Victorville 2.

I. THE CITY HAS BEEN DILIGENT IN SEEKING TO BRING THE PROJECT TO A “BUILD READY” STATE AND BEGIN CONSTRUCTION OF VICTORVILLE 2.

In September 2005, the City signed a Services Agreement with Inland Energy, Inc. (Inland), and Inland became responsible for developing the Project. Consistent with that agreement, Inland performed extensive pre-construction management services, including site layout, permitting, discussions, and negotiations with contractors and subcontractors. The development activities included:

1. In December 2007, the Victorville City Council (City Council) approved a purchase contract with General Electric (GE) to construct the power block in accordance with plans and specifications. Pursuant to that contract, the City deposited \$50 million with GE.
2. In May 2008, the City Council approved a Limited Notice to Proceed (LNTP) with Kiewit Power Constructors Co. (Kiewit) to complete preliminary work to establish a firm price for all technical assistance, design, engineering, procurement and construction services to be provided under an Engineering, Procurement and Construction (EPC) contract to be negotiated between the two parties. Pursuant to that LNTP, the City paid Kiewit \$3 million.
3. In February 2006, the City paid Southern California Edison (SCE) to complete the “System Impact Study” as required for the “Large Generator Interconnection Agreement” and resolve certain issues including some right of way concerns.
4. The City acquired 67 parcels (344 acres) through eminent domain proceedings and negotiated settlements at a cost well in excess of \$10 million.
5. In connection with the prior construction of Victorville 1, the City required the oversizing of various transmission conduits in order to provide necessary capacity for Victorville 2. This included oversizing the natural gas pipeline that services Victorville 1 and the erection of electricity distribution poles capable of handling the additional transmission wires required for Victorville 2.
6. In September 2010, the City executed a five-year memorandum of understanding (MOU) with High Desert Power Project, LLC and High Desert Power Trust (HDPP/HDPT) for the negotiation of agreements for transmission line cost sharing, the option to purchase PM-10 emission reduction credit rights, and the option to purchase firm natural gas transportation capacity rights under the existing agreement between HDPP/HDPT and Kern River Gas Transportation Company.

7. In 2006 and 2008 the City worked with the Mojave Desert Air Quality Management District (MDAQMD) to identify and pave eligible dirt roads for the purpose of removing dust from the atmosphere to obtain the PM-10 Emission Reduction Credits (ERCs) required for the Project. The approximate cost of the paving efforts totaled \$1.5 million. The issuance of PM-10 certificates associated with these efforts has been delayed due to legal challenges against the MDAQMD's Rule 1406, which outlines the requirements for the issuance of ERCs for road paving. However, the MDAQMD prevailed in the initial proceeding, and anticipates the appellate court ruling on this matter later this year.
8. Through its consultants, the City has engaged in discussions with brokers regarding the purchase and transfer of the NOx and VOC ERCs required for the Project. The acquisition and inter-basin transfer to the MDAQMD, either from the San Joaquin Valley Air Pollution Control District or the South Coast Air Quality Management District, appear to be viable options. Additionally, the Southern California Logistics Airport owns sufficient NOx credits to satisfy the Project requirements, and is amenable to selling such credits to the Project if an alternate means of acquiring the credits cannot be determined. Other in-district acquisition options are also available.
9. Pursuant to a 2005 Reclaimed Water Services Agreement with the Victor Valley Wastewater Reclamation Authority (VWVRA), the City is entitled to purchase all of the reclaimed water output from the VWVRA's wastewater treatment plant in order to be able to provide water to Victorville 2. The City further caused the development of its own wastewater treatment facility at the SCLA (which became operational on August 1, 2010) and provides an additional source of reclaimed water for use at Victorville 2.
10. In March 2010, the City received the Prevention of Significant Deterioration (PSD) air quality permit from the Environmental Protection Agency (EPA).

II. THE CITY HAS BEEN DILIGENT IN SEEKING POWER PURCHASE AGREEMENTS TO ENABLE FINANCING AND BEGIN CONSTRUCTION OF VICTORVILLE 2.

The City has, through its consultants, engaged in significant efforts to secure a power purchase agreement. One of those efforts revolved around the establishment of a Community Choice Aggregation (CCA) program. CCA enables cities and counties to supply electricity to the customers within their boundaries. Navigant Consulting, Inc. (NCI) was retained to evaluate the market feasibility of forming a CCA in the City and surrounding communities and purchase a portion of Victorville 2. On February 19, 2008, the City Council adopted Resolution No. 08-053, which among other things expressed the City's intent to pursue implementation of a CCA program in conjunction with development of Victorville 2, and authorized the development of a statutorily required CCA implementation plan and involvement in related regulatory proceedings at the California Public Utilities Commission (CPUC). Pursuant to Resolution No. 08-053, in mid-April 2008 NCI finalized a draft CCA implementation plan in which Victorville 2 was described as providing a majority of the program's anticipated electricity requirements. During that

time, the City began efforts with neighboring communities to consider a regional, High Desert CCA program.

In support of these efforts, the City intervened and became an active party in the CPUC's CCA rulemaking proceeding. In March 2008, the City filed a petition for modification of various rate methodologies affecting CCA development. On June 24, 2009, the City joined the investor-owned utilities and the San Joaquin Valley Power Authority in filing two CCA-related settlement agreements at the CPUC. The settlement agreements are still pending before the CPUC.

In addition, on several previous occasions, Inland met with Southern California Edison Company and members of the Southern California Public Power Authority to explore their potential interest in purchasing power from Victorville 2. However, since 2008, electric utilities in Southern California have not issued a long-term request for all-source power proposals. Nevertheless, the City and its consultants continue to pursue opportunities to obtain a power purchase agreement. In fact, as recently as August of 2012, the City, in conjunction with its consultants and Panda Fund Development Company, responded to an RFP from the Los Angeles Department of Water and Power (LADWP) (see below).

III. THE CITY HAS BEEN DILIGENT IN SEEKING INVESTORS TO ASSUME AN OWNERSHIP POSITION TO COMPLETE THE REMAINING DEVELOPMENT EFFORTS AND BEGIN CONSTRUCTION OF VICTORVILLE 2.

In Spring 2008, Inland on behalf of the City requested proposals from investment banking firms to be the agent for the equity private placement and debt financing of Victorville 2. The City engaged Goldman Sachs & Co. (GS) as sole placement agent for the equity private placement and lead arranger for the debt financing. GS prepared the marketing material and preliminary Private Placement Memorandum and solicited investors. The collapse in the credit markets and lack of funding caused these efforts to terminate.

In May 2009, the City requested proposals from pre-qualified bidders for the completion of the remaining development efforts, and the terms and conditions for the sale of the Project. The solicitation led to negotiations with two bidders. In November 2009, the City entered into a Memorandum of Understanding (MOU) with NRG Energy Corporation, one of the largest power generators. The MOU was later terminated in January 2010 due to stalled negotiations. In March 2010, the City granted Beowulf Energy, LLC a 60-day exclusivity period to prepare a proposal for developing the Project. In May 2010, the exclusivity period was extended for an additional 45 days, but when no agreement was reached, City Council directed staff to explore other options.

QGEN Energy (QGEN) is a technology-driven global producer of electricity and desalinated water. QGEN designs, develops, owns and operates hybrid plants that integrate state-of-the art concentrated solar power technologies with conventional gas-fired plant design. In August 2011, the City granted QGEN a 90-day exclusive due diligence period, followed

by a 45-day exclusivity period to prepare a proposal for developing the Project. On November 15, 2011, City Council authorized a six-week extension of the due diligence period. In February 2012, one month following the receipt of a draft land purchase agreement, the City learned that QGEN was putting together a consortium and appointing a new negotiator. The negotiating period was repeatedly extended to no avail, and in June 2012 the City informed QGEN that the exclusivity period had expired and the City Council would entertain other offers.

In August 2012, the City developed a “term sheet” with Panda Fund Development Company to build Victorville 2 and respond to the LADWP “Request for Proposals” to buy a plant with a capacity between 300 and 575 MW. Panda submitted a detailed response to the RFP, however, LADWP’s preference was to purchase an existing facility and Victorville 2 was not selected.

The City continues to receive regular requests for information on the purchase of Victorville 2. Staff diligently responds to all such requests in an attempt to secure a private partner to continue the ongoing development or to outright purchase the development rights. The attempts listed above are only those whose talks progressed to the point of a Memorandum of Understanding or other preliminary agreement. There have been dozens of parties interested in the development of Victorville 2; however, market conditions have kept the City from finalizing any negotiations.

IV. FACTORS BEYOND THE CITY’S CONTROL HAVE CAUSED THE DELAY IN INITIATING CONSTRUCTION OF VICTORVILLE 2.

The collapse in the credit markets that began in 2007 resulted in the failure of a number of large and nationally known financial institutions including Countrywide Financial, Washington Mutual and Lehman Brothers. The conditions that caused these firms to fail also affected the ability of the City to implement its plan of bringing the Project to construction. As a result the City has been unable to cause the development of Victorville 2 and realize the benefits of its investment.

Over the past five years, the national economy has continued to deteriorate into what are some now term “The Great Recession,” and as a result, there has been a significant reduction in new electric demand. Electric utilities in Southern California have not issued a long-term request for all-source power proposals.

In March 2009, the City was notified by GE that the Victorville 2 power block purchase contract was in default as a result of the failure by the City to make the required periodic payments. In May 2010, the City and GE settled the dispute. GE retained the \$50 million deposit and provided a \$10 million credit for the future purchase of equipment through April 2016.

In 2009, the City's outside auditing firm declined to certify the City's financial statements. One of the major credit rating agencies pulled its ratings on the City's debt; inhibiting the City's capacity to either refinance existing or issue new debt.

The significant increase in natural gas supply, lower natural gas prices and depressed power and capacity prices has contributed to the bankruptcy filings for major power suppliers, including Edison Mission Energy and Dynergy Holdings, and changed the financial feasibility of new generating facilities.

Legislation, California Independent System Operator (CAISO) interconnection uncertainty, and delays in securing power purchase agreements have delayed the construction of solar facilities and the accompanying need for gas fired generation.

V. OVER THE NEXT FIVE YEARS MARKET CONDITIONS ARE EXPECTED TO PLACE A PREMIUM ON NATURAL GAS GENERATION THAT WILL EFFECTIVELY INTEGRATE INTERMITTENT RENEWABLE ENERGY RESOURCES IN THE REGION.

Interested investors and buyers of whole power have expressed a preference for fast-start, efficient, gas fired resources that will effectively integrate intermittent resources in the region, and less interest in the solar thermal component. This modification will reduce start times and corresponding start up emissions, as well as allow the modified project to have a more flexible and dispatchable operating profile, including faster ramping rates, larger dispatchable load following range with lower emissions, and quicker cycle times between unit starts and stops, all with efficient operation over the entire range of operation. A five (5) year extension will keep the Project in the position to be modified and responsive to the needs of interested developers, the CAISO, and local utilities.

VI. PROSPECTS TO BEGIN CONSTRUCTION OF VICTORVILLE 2 ARE IMPROVING.

The City's 2012/2013 General Fund has a balanced budget with no use of reserves for the first time in four years. The City also recently received a \$54 million legal settlement that was used to reduce bond debt, eliminate a substantial amount of internal borrowing, and help solidify the City's financial future.

California's Renewables Portfolio Standard, as required under Senate Bill 2 in the 2011-2012 First Extraordinary Session, now requires a significant increase in the percentage of renewable energy sold to utility customers to be procured from renewable energy sources. The Victorville 2 plant site is situated in a sun soaked region that is a very attractive location for the development of future solar power generation resources. As the solar build-out moves forward, fast-start gas fired resources will be required to maintain system grid integrity. The Victorville 2 advanced gas turbines can be permitted to employ GE's rapid start process that effectively reduces the time required for startup and shutdown of the turbine generators.

Extending the construction deadline provides the City with the opportunity to:

- seek power purchase agreements from utilities that are expected to terminate their participation in coal generation projects;
- continue in its efforts to establish a CCA;
- meet the expected need for the strategic location of fast-start gas fired generation resources to integrate intermittent solar power generation resources;
- retain the viability of a planned major generating facility in the Southern California region;
- regain the City's investment grade rating and capacity to either refinance existing or issue new debt;
- be responsive to developers that continue to approach the City and explore the possibilities of building Victorville 2;
- recover the City's significant investment in Victorville 2;
- participate in an improving national economy and increasing electric demand; and
- capture the \$10 million credit for the future purchase of GE power equipment.

VII. THIS PETITION FOR EXTENSION OF THE CONSTRUCTION DEADLINE IS SUBMITTED IN ACCORDANCE WITH THE CEC RULES OF PRACTICE AND PROCEDURE.

Finally, in accordance with Section 1769 of the CEC's Rules of Practice and Procedure, should the CEC find there is good cause to approve the Victorville 2 Petition for the Extension of the Construction Deadline, such extension will not result in impacts different from those analyzed in the original CEC Decision. The Project will continue to comply with all applicable Laws, Ordinances, Regulations and Standards (LORS). A map and list of all property owners located within 1,000 feet of the Victorville 2 site are attached to this Petition.

CONCLUSION

Facing a deteriorating national economy, depressed electric demand, falling natural gas prices, and changing legislation, the CEC Staff members, the City of Victorville and other governmental agencies have invested a substantial amount of resources, time and effort to permit and bring the Project to a "build ready" state; negotiate with potential investors to complete the remaining development efforts; and actively pursue power purchase agreements to enable financing. These factors, as well as the need to build fast-start gas fired resources to effectively integrate intermittent renewable energy resources in strategic locations, establish good cause for extending the construction deadline for Victorville 2. The City respectfully requests that the CEC grant this Petition for a five (5) year Extension of the Construction Deadline, and thanks the CEC and its Staff for their review and consideration.

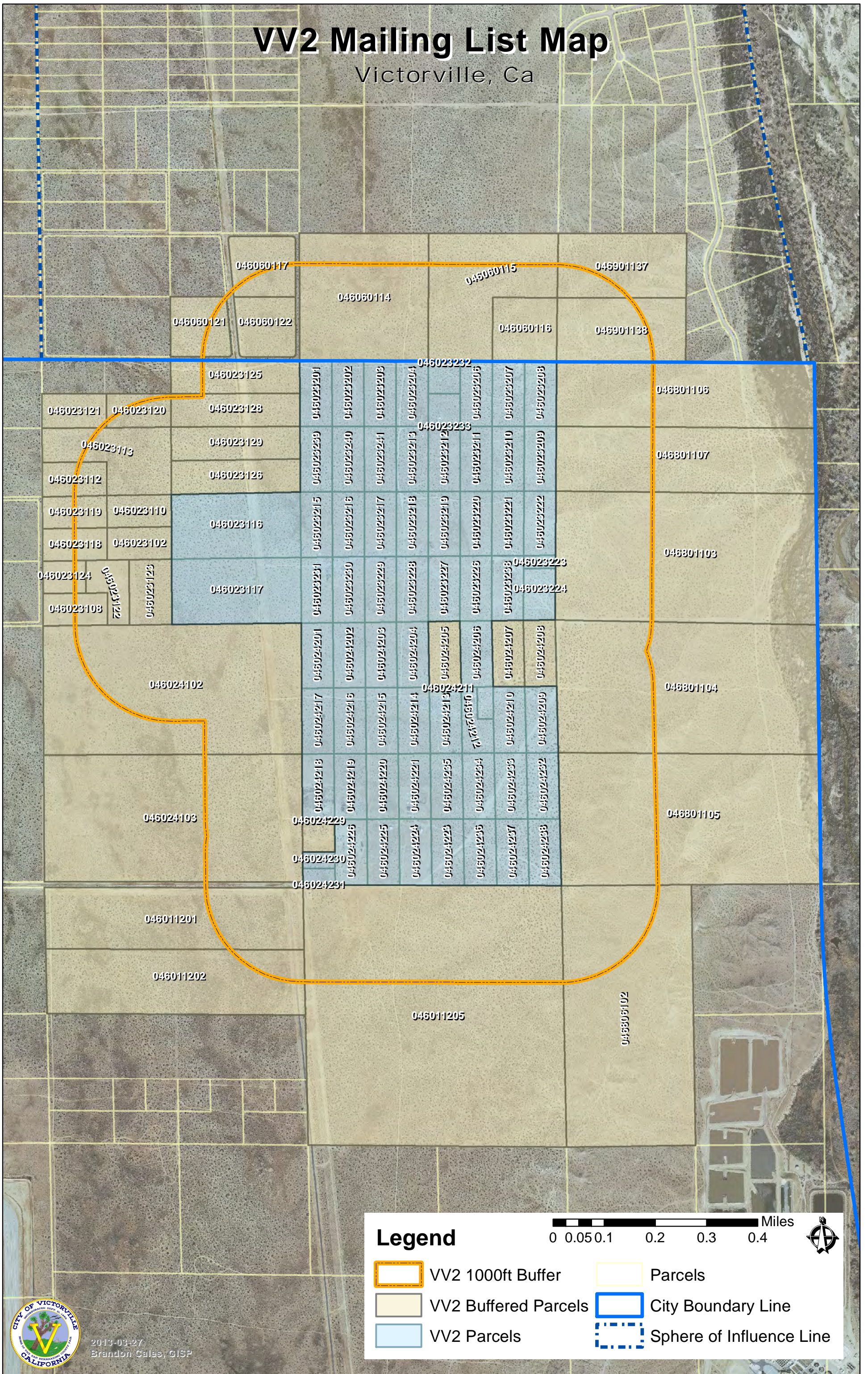
Dated: March 28, 2013

VV2 Mailing List
(Property Owners Within 1,000 ft. of the Project)

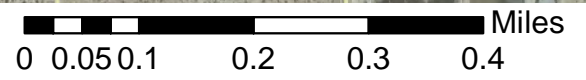
APN	PRIMARY OWNER NAME	PRIMARY OWNER MAILING ADDRESS		
		STREET ADDRESS	CITY/STATE	ZIP CODE
046801104	MARTIN, RICHARD W	5321 STRASBOURG AVE	IRVINE, CA	92714
046011202	FOU, HAT	11037 BIELLA WY	WHITTIER, CA	90604
046023112	YU LIV TR 10-8-07	248 W WOODRUFF AVE	ARCADIA, CA	91007
046023129	AIM HIGH LLC	3530 WILSHIRE BLVD STE 230	LOS ANGELES, CA	90010
046806102	INTERTECHLAND LLC	P O BOX 1598	UPLAND, CA	91785
046801107	SHAW, PETER M	35054 VIA LAGUNA	WINCHESTER, CA	92596
046023120	PADDEN FAM TR 7-19-04	4911 MATILIIA AVE	SHERMAN OAKS, CA	91423
046023110	CALDWELL, TILLMAN A TR	7746 E ARNETT ST	DOWNEY, CA	90241
046023126	AIM HIGH LLC	3530 WILSHIRE BLVD STE 230	LOS ANGELES, CA	90010
046011205	THE CAMP AND JULIA SECOND FAMILY LTD	222 N BUENA VISTA #213	BURBANK, CA	91505
046023122	NGUYEN, LOC KHUONG	8830 WHITE OAK AVE	NORTHRIDGE, CA	91325
046024102	DESERT WIND LLC	3530 WILSHIRE # 230	LOS ANGELES, CA	90010
046024205	LANDWEHR, CHARLES V AND JENNIFER TRS	118 LOMA VISTA	TAFT, CA	93268
046023121	SHERMAN, LINDA TRUST 1-19-1995	206 KOKOS LN	CANYONVILLE, OR	97417
046023128	AIM HIGH LLC	3530 WILSHIRE BLVD STE 230	LOS ANGELES, CA	90010
046024208	ISEMAN, CHRISTOPHER M	320 W SHEPHERD	CHARLOTTE, MI	48813
046023108	SUAVE, MARIE M LIVING TRUST 6/2/09	31514 FLYING CLOUD DR	LAGUNA NIGUEL, CA	92677
046024103	OK ENTERPRISE	PO BOX 6816	ROSEMEAD CA	91770
046011201	JIMENEZ, ROBERT & RACHEL REV FAM TR	7951 ARLINGTON AVE	RIVERSIDE, CA	92503
046023118	FERNANDO, FELICITO E	5845 FRONTAGE RD NW	CLEVELAND TN	37312
046023102	SAUVE, MARIE M LIVING TRUST 6/2/09	31514 FLYING CLOUD DR	LAGUNA NIGUEL, CA	92677
046023113	FAHMY, SAMIA	3607 GLENPINE DR	HOUSTON, TX	77068
046024207	ISEMAN, CHRISTOPHER M	320 W SHEPHERD	CHARLOTTE, MI	48813
046801106	RISELING, MAURICE A TRUST -EST OF	628 WILDROSE AVE	RIDGECREST, CA	93555
046023124	INAGUCHI, KAZUYA	23201 MILL CREEK DRIVE 3RD FLOOR	LAGUNA HILLS CA	92653
046023123	ASSFY, LOUISE P	18907 BELLFLOWER ST	ADELANTO, CA	92301
046023119	SAHILL, AHAMED A	1527 GRISSOM ST	THOUSAND OAKS, CA	91362
046801105	TASH, SIAMAK	750 BUNDY DR APT 302	LOS ANGELES, CA	90049
046023125	AIM HIGH LLC	3530 WILSHIRE BLVD STE 230	LOS ANGELES, CA	90010
046801103	MICKELSON, RICHARD C LIVING TRUST	1911 RIVERSIDE DR	GLENDALE, CA	91201
046024229	SERNA-STATON, REBECCA	PO BOX 833594	RICHARDSON TX	75083
046060114	LEE, ANDREW	3250 W OLYMPIC BLVD STE 207	LOS ANGELES, CA	90006
046060115	KARDANI, VIJAY D & BHARTI V FAM TR 3	751 S WEIR CANYON RD #157 PMB 545	ANAHEIM CA	92808
046060116	SMALLWOOD, MARY J	21622 N 152ND DR	SUN CITY WEST, AZ	85375
046060117	VEGA, PATRICIA R	PO BOX 4273	BURBANK, CA	91503
046060121	LU, KELLY HSIU-MEI	234 W PALM DR	ARCADIA, CA	91007
046060122	WANG, PETER YIN CHENG	15 BRIDGEPORT RD	NEWPORT COAST, CA	92657
046901137	PEREZ, JUAN G	5849 MARSEILLES DR	PALMDALE, CA	93552
046901138	MC CONNELL, MICHAEL L	16081 BALLANTINE LN	HUNTINGTON BEACH, CA	92647

VV2 Mailing List Map

Victorville, Ca



Legend



- VV2 1000ft Buffer
- VV2 Buffered Parcels
- VV2 Parcels
- Parcels
- City Boundary Line
- Sphere of Influence Line

