May 20, 2013

Mary Dias
Compliance Project Manager
California Energy Commission
Dockets Unit, MS-4
Docket No. 07-AFC-1C
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Request to post-pone hearing to extend the 5-year construction deadline for the Victorville 2 Power Plant Project

Dear Compliance Project Manager Dias:

I respectfully request that the California Energy Commission post-pone any public hearing concerning the City of Victorville's petition to extend the 5-year construction deadline for the Victorville 2 Power Plant Project until the City of Victorville satisfies the requirements of the Brown Act for said petition. Please find the attached City Claim/Brown Act Violation Cure and Correct Letter dated May 15, 2013.

As you are aware, section 625(a)(1)(A) of the Public Utilities Code requires personal notice to be served on the owners of the property to be condemned. I am an owner of parcel #046024205 and have never received such notice despite the City identifying this parcel for condemnation to the CEC.

Likewise, I received no notice from the City of Victorville regarding any hearing concerning the 5-year extension of the construction deadline for the Victorville 2 Power Plant Project. I believe property owners have the right to be informed and involved in the development of their property. I think continuing to ignore notice requirements could also violate property owners' due process rights.

Thank you for your consideration.

R Landwehr

Robert Landwehr

CLAIM AGAINST THE CITY OF VICTORVILLE

(For Damages to Persons or Personal Property)

Received by at 12:25 p.m.
Donna Lenhart

via ___ U.S. Mail
___ Inter-office Mail
X Over the counter

RECEIVED
MAY 15 2013
City Clerk's Office

Clerk's Date Stamp

A claim must be filed with the City Clerk of the City of Victorville within 6 months after which the incident or event occurred. Be sure your claim is against the City of Victorville, not another public entity. Where space is insufficient, please use additional paper and identify information by paragraph number. Completed claims must be mailed or delivered to the City Clerk, the City of Victorville, California.

TO THE HONORABLE MAYOR AND CITY COUNCIL, The City of Victorville, California:

The undersigned respectfully submits the following claim and information relative to damage to persons and/or personal property:

1. NAME OF CLAIMANT ROBERT LANDWEHR

   a) ADDRESS OF CLAIMANT 27961 CELIA ROAD (STREET) MURRIETA (CITY) CA (STATE & ZIP CODE) 92563

   b) PHONE NO. (951) 698-8449

   c) DATE OF BIRTH [redacted]

   d) SOCIAL SECURITY NO. [redacted]

   e) DRIVERS LICENSE NO. [redacted]

2. Name, telephone and post office address to which claimant desires notices to be sent, if other than the above: —

3. Occurrence or event from which the claim arises:

   a) DATE: APRIL 16, 2013

   b) TIME: _____

   c) PLACE (exact and specific location): CITY HALL

d) How and under what circumstances did damage or injury occur? Specify the particular occurrence, event, act or omission you claim caused the injury or damage (use additional paper if necessary).

SEE ATTACHED 7 PAGE LETTER

e) What particular action by the City, or its employees, caused the alleged damage or injury?

SEE ATTACHED 7 PAGE LETTER

4. Give a description of the injury, property damage or loss, so far as is known at the time of this claim. If there were no injuries, state "no injuries".

SEE ATTACHED 7 PAGE LETTER

5. Give the name(s) of the City employee(s) causing the damage or injury: _____

SEE ATTACHED 7 PAGE LETTER

6. Name and address of any other person injured: _____

SEE ATTACHED 7 PAGE LETTER

7. Name and address of the owner of any damaged property: _____

SEE ATTACHED 7 PAGE LETTER

8. Damages claimed:

a) Amount claimed as of this date: $ SEE ATTACHED 7 PAGE LETTER

b) Estimated amount of future costs: $_____

c) Total amount claimed: $_____

d) Basis for computation of amounts claimed - (include copies of all bills, invoices, estimates, etc.):

9. Names and addresses of all witnesses, hospitals, doctors, etc.:

a) SEE ATTACHED 7 PAGE LETTER

b)

c)

d)

10. Any additional information that might be helpful in considering this claim:

SEE ATTACHED 7 PAGE LETTER

WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM!!
(PENAL CODE SECTION 72; INSURANCE CODE SECTION 556.1)

I have read the matters and statements made in the above claim and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief as to such matters I believe the same to be true. I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

Signed this 15TH day of MAY, 2013, at VICTORVILLE, CA

R Landwehr

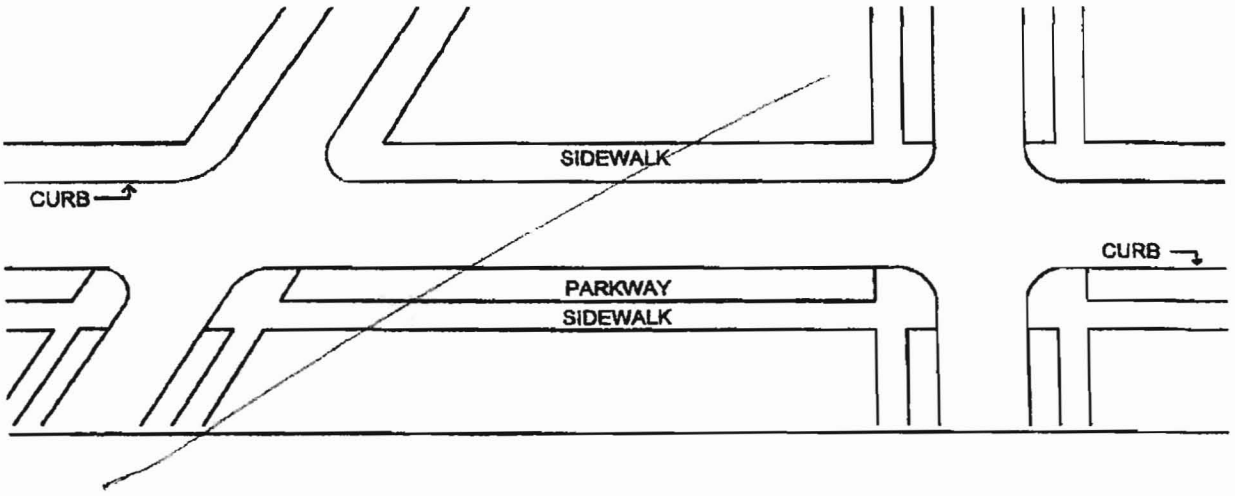
CLAIMANT'S SIGNATURE

OFFICE OF THE CITY CLERK,
VICTORVILLE, CALIFORNIA

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Agency Vehicle; location of City/Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Warning: Presentation of a false claim is a felony (Penal Code §72). Pursuant to CCP §1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature: R Landwehr Date: MAY 15, 2013

May 15, 2013

Mayor Jim Cox
Mayor Pro-Tem Ryan McEachron
Council Member Gloria Garcia
Council Member Jim Kennedy
Council Member Angela Valles

Re: Brown Act Complaint – Cure and Correct

Dear Victorville City Council and SCLAA Board:

The Ralph M. Brown Act begins, *"In enacting this chapter; the legislature finds and declares that the public commissions, boards and councils and the other public agencies in this state exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they retain control over the instruments they have created."* (Section 54950 Government Code)

California Constitution, Article 1, section 3(b)(1) states, *"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meeting of the legislative bodies and the writings of public officials and agencies shall be open to public scrutiny."*

FACTUAL BACKGROUND

On July 15, 2008, the Victorville City Council adopted Resolution #08-117, condemning the remaining 34 parcels of land required to develop the Victorville 2 Power Plant Project. Section 4 of Resolution #08-117 states, *"The power plant*

*and the solar panel fields require a Project site of approximately **250 acres** of land." "The Project cannot be completed without the acquisition of the Properties and inclusion of the same within the Project."*

Inland Energy Inc., the City's consultant for Victorville 2, was not present at this hearing. No map or drawings of the Victorville 2 project site was presented. In addition, the property owners being affected by Victorville 2 were not listed or identified at this hearing.

On July 16, 2008, by adoption of Order No. 08-0716-2, the California Energy Commission (CEC) issued its final decision and granted the City of Victorville a five year certificate to construct and operate the Victorville 2 Power Plant Project.

On June 29, 2012, the San Bernardino County Grand Jury released its 2011-2012 Final Report which states in part: *"The City of Victorville and the Southern California Logistics Airport Authority (SCLAA) initiated large, high risk electrical generation-related capital projects in the mid 2000's without proper pre-project risk assessments or project control. The analysis supporting such decision making has been based on recommendations from contractors who have had an interest in the projects. Further, this decision making has not been transparently presented to the public. The subsequent failure of these projects has resulted in substantial losses and contributed to a heavy long-term debt burden for the City and the Airport.*

In September 2005, the City, acting as the governance board for the Southern California Logistics Airport Authority, initiated a project to develop a 500-megawatt power plant, known as Victorville 2. The Victorville 2 project was never completed and ultimately cost the SCLAA over $50 million in losses with over $76 million invested to date. City management did not conduct proper due diligence before initiating the project, entering into an onerous and open-ended agreement with Inland Energy Inc., or entering into a high risk $182 million agreement to purchase power generation equipment from General Electric. Further, City management did not enforce all contract terms and has not formally managed the use of an open-ended provision in the agreement. In addition, the

agreement with General Electric was adopted without proper transparency in closed session, likely violating the Brown Act."

On March 28, 2013, Victorville City Manager Douglas Robertson filed a petition with the CEC seeking a 5-year extension of the construction deadline for the Victorville 2 Power Plant Project. This petition states in part, *"The Project is located at the Southern California Logistic Airport on a **300 acre** site, in Victorville, California."* This petition also states, *"...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 1000 feet of Victorville 2 site are attached to this Petition."*

VICTORVILLE CITY COUNCIL MEETING APRIL 16, 2013

Agenda Item #12 "FOR INFORMATION ONLY – 2011-2012 GRAND JURY REPORT UPDATE"

City Manager Douglas Robertson and the City Council (absent Council Member Valles) discuss a memorandum written by City Council Member Valles that evidently requests follow-up information from City Manager Robertson concerning the 2011-2012 Grand Jury Report.

Council Member Kennedy states, *"The City Manager takes instruction from the entire Council not from single members." "But, I also want to say that I completely disagree with her request. We have responded to the Grand Jury Report and I think that's enough. The City has wasted a substantial amount of time and treasure dealing with the Grand Jury. After four years and well over a million dollars of tax payer money both at the County and City level, the Grand Jury Report was a, in my opinion, a seriously defective, defective product. I think we got a shabby, shabby return on that million dollar investment. I'm just opposed to spending anymore of the City Manager's time or City Staff time going*

back over these issues that we have already responded to. That's my feeling on this."

Mayor Pro-Tem McEachron states, *"Well, I agree with Council Member Kennedy but at the same time I don't have any issue with her asking these questions."*

Despite open discussion, the specifics of the memorandum are not disclosed at the hearing on the overhead screens and the memorandum is not included with the backup material for public review absent a public records request.

Agenda Item #16 "REQUEST TO ADOPT RESOLUTION NO. 13-009 ENTITLED: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA SUPPORTING THE PETITION SUBMITTED TO THE CALIFORNIA ENERGY COMMISSION TO EXTEND THE CONSTRUCTION DEADLINE FOR THE VICTORVILLE 2 HYBRID POWER PROJECT"

A copy of the petition is attached to the resolution however the map and list of all property owners located within 1000 feet of Victorville 2 Project are intentionally excluded and kept secret under the guise of privacy. The resolution passes with a 4 to 0 vote. During Council's discussion of the matter, the City Manager indicates that he has received a favorable response from staff members at the CEC for the City receiving the 5-year extension with a tentative Sacramento hearing date of June 7th or 10th. The City Manager has also solicited neighboring cities requesting their support for the five year extension of Victorville 2.

Agenda Item #17 "REQUEST TO APPROVE PAYMENT OF THE ANNUAL ENERGY FACILITY COMPLIANCE FEES TO THE CALIFORNIA ENERGY COMMISSION (CEC) FOR THE VICTORVILLE 2 HYBRID POWER PROJECT IN AN AMOUNT TOTALING $90,377.00 FOR FISCAL YEARS 2009/2010 THROUGH 2012/2013.

Mayor Jim Cox introduces Agenda Item #17 after the Council approves the adoption of Resolution #13-009 by stating, *"Accompanying this effort Item 17..."*

Open discussion occurs between the Council and City Manager Douglas Robertson during which time City Manager Robertson states, *"...in order for our petition to receive consideration we need to be caught up on our fees...it allows the CEC to hear our petition."*

Before the vote is taken, Council Member Jim Kennedy states, *"I'll make this a question to you Doug because I'm confident we will be criticized for spending ninety thousand dollars on another failed power project; would you kind of explain what our rationale was in making this decision?"*

Item passes with a 4 to 0 vote approving $90,377.00 to catch up back fees.

PERCEIVED BROWN ACT VIOLATIONS

Between Resolution 08-117 and Resolution 13-009, the Victorville 2 project site has increased 50 acres. On April 16, 2013, the map and list of property owners being affected by Victorville 2 were intentionally withheld under the guise of privacy. In addition to the Brown Act violation previously cited in the Grand Jury Report concerning the General Electric contract for Victorville 2, the Grand Jury Report also indicates decision making analysis was supported by outside contractors who had interests in Victorville's energy generation projects. In light of this Grand Jury finding, did outside contractors have property interests in selecting the Victorville 2 project site location? Did former or current public officials have interests in Victorville 2's project site? Keeping these documents secret prevent public scrutiny and run afoul of the basic transparency requirements sought in the Brown Act. (Government Code section 54957.5)

Absent City Council approval, City Manager Robertson lacks the authority to petition the CEC for a 5-year extension to build and operate Victorville 2. The CEC petition filing for the 5-year extension should have occurred after not before the April 16th Council Meeting where both the resolution of support for the petition and its financing are approved.

It is overwhelmingly evident that prior to the Council's vote on April 16, 2013, City Manager Robertson was given direction/and or aware of the City Council's decision to file the CEC petition that requires payment of past delinquent fees and future fees that will far exceed $100,000.00. When and where was this hearing giving City Manager Robertson the authority to petition the CEC for the 5-year extension of Victorville 2 on March 28, 2013? On what agenda did the item appear? (Government Code sections 54953, 54954.2 & 54954.5)

CURE AND CORRECT

The San Bernardino Grand Jury report cites City Management with failing to conduct proper due diligence before initiating the Victorville 2 power plant project that subsequently led to the loss of millions of dollars . To cure and correct the above perceived Brown Act Violations, the City shall nullify Resolution 13-009. Prior to seeking a subsequent resolution on the same topic, City Manager Robertson shall present a written report to the City Council in open session that will include the following:

- The memorandum from Council Member Angela Valles seeking a status update on the Grand Jury Report Recommendations along with the requested responses from City Manager Robertson. The City Manager will also explain why he has not yet submitted his completed recommended policies and procedures to the City Council concerning SCLAA Capital Projects of which include the Victorville 2 power plant project.
- The map of the Victorville 2 power plant project site.
- The names/mailing list of the property owners within 1000 feet of the Victorville 2 project site identifying any known consultants or city officials having property interests in the selection of the Victorville 2 project site.
- A five year cost analysis for the 5-year extension of Victorville 2.
- An explanation as to why the City of Victorville paid an additional $6,304.00 on May 8, 2013 to the CEC for Victorville 2 compliance fees and why those fees were not included in City Manager Robertson's $90,377.00 request to the Council on April 16, 2013.

- Identify who, when and where directed City Manager Robertson to file the petition with the CEC seeking the 5-year extension to build and operate the Victorville 2 power plant.

This letter calls to your attention what I believe are substantial violations of the provisions found in the Ralph M. Brown Act. Your decision making has again not been transparently presented to the public as was previously identified in the Grand Jury Final Report. I demand that the Victorville City Council/Southern California Logistics Airport Authority Board comply with the above listed corrective actions.

You have 30 days from the receipt of this demand to cure and correct the challenged actions or inform me of your decision not to do so.

Cordially,

Robert Landwehr
27961 Celia Road
Murrieta, CA 92563

Cc San Bernardino County District Attorney Michael Ramos
Victorville Daily Press