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September 23, 2008

To : City Council  
City of Banning, Ca.  
99 East Ramsey Street  
Banning, Ca., 92220

Att : Mayor Brenda Salas

re : Resolution 2007-24 and Resolution 2007-81  
Liberty Energy's Sewage Sludge Plant

Dear Council Members:

This office and the undersigned represent the interests of the entity known as Citizens Against Toxic Sludge. With the election of several of the council members fast approaching, I note that there is an opportunity for the City Council to rescind two rather dangerous Resolutions, #2007-24 and #2007-81 (copies attached hereto) , for the following reasons :

1) Neither City Council Resolution identifies the "renewable energy biomass generating facility" for what it actually is -- a sewage sludge incinerator that burns human feces, animal feces, and contaminated material to ashes ( according to the DEIR), thru a 118 foot high smoke stack, emanating contaminates into the very air the residents of Banning breathe , many of which are cancerous in nature.

2) Neither Letter of Intent from Liberty Energy that is attached to the respective resolutions identifies the "power generating plant" as a sewage sludge incinerator , yet again that is what the DEIR says it is .

3) Based on the facts as stated in items # 1 and # 2 above, it is quite apparent that none of the City Council members knew at the time of signing the respective resolutions on March 27, 2007 and July 10, 2007, that the project they were entertaining was actually a sewage sludge plant, that emanated carcinogenic materials into the air that the people of Banning breath. Hence the City Council has at the very least been grossly mislead by Liberty Energy , and most likely defrauded by Liberty as to the true nature of the plant that the Ci ty Council thought they were going to get.

Therefore, you now have the opportunity , and the power , to rescind both

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Resolutions # 2007-24 (agreement to buy electricity from Liberty Energy, if and when the plant is built) and Resolution # 2007-81 (agreement to enter into a land lease with Liberty Energy , if and when the plant is built) , based on the California Appellate Court case of the City of Susanville vs. Lee C. Hess Co., (1955), 45Cal 2nd 684 , 290P2nd 520 (at page 527), in which the Court stated that unless the city Council's decision to sign a resolution was procured by fraud, mutual mistake, or other basis for rescission ( ie - misrepresentation) , then the City Council is powerless to act. In this case, on the other hand , the misrepresentation, if not fraud, as described above, is the basis ,and the power (thru the Susanville court decision described above) for the City Council members of Banning to now rescind both Resolution # 2007-24 and #2007-81, and prevent the impending health problems and perineal odors from ever entering the good city of Banning, California.

Very Truly Your,  
Law Office of Benson Goldstein

By : \_\_\_\_\_  
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Citizens Against Toxic  
Sludge

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