

DOCKETED

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VIA E-FILING

Carlsbad Energy Center Project Petition to Amend (07-AFC-06C)
Mike Monasmith, Project Manager
Joe Douglas, Compliance Project Manager
Paul Kramer – Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Petition to Remove Obsolete Facilities to Support Construction and Petition to Amend
the Carlsbad Energy Center Project (07-AFC-06C)
Data Request Set 2 Objections and Time Extension Request

Dear Mr. Monasmith and Mr. Douglas:

California Energy Commission staff (“**Staff**”) filed Data Request Set 2 (TN 202992) (the “**Data Requests**”) on August 27, 2014 regarding Carlsbad Energy Center LLC’s (“**Project Owner**”) Petition to Remove Obsolete Facilities to Support Construction (“**PTR**”) of the Carlsbad Energy Center Project (07-AFC-06C) (“**CECP**”), and Petition to Amend (“**PTA**”) the CECP. As Project Owner has been compiling the requested data, Project Owner has determined that it will be unable to provide all of the data by the September 25, 2014 Data Request due date. Project Owner also objects to certain of the Data Requests, as discussed in more detail below.

1. Request for Time Extension. Pursuant to California Code of Regulations Title 20, Section 1716(f), Project Owner respectfully requests that the Committee extend Project Owner’s deadline to respond to Data Request Nos. 31-33, 38, 39 and 58. Project Owner will provide Staff with complete responses to these Data Requests as soon as possible, and not later than October 17, 2014.

a. Data Request Nos. 31-33, 38, 39. In Data Requests No. 31-33, 38, 39, Staff requested additional information about the potential presence of cultural resources at the project site and procedures for addressing the same. Project Owner will be unable to provide Staff with the requested data until mid-October.

b. Data Request No. 58. In Data Request No. 58, Staff requested simulations of the amended CECP, as proposed in the PTA, from Key Observation Points 8, 9, 10 and 11.

Project Owner will be unable to produce these visual simulations by their September 25, 2014 deadline, and therefor requests additional time to provide them to Staff.


2. Objections. Project Owner respectfully objects to Data Request Nos. 34 through 37 for the following reasons:

a. Data Request Nos. 34 and 35: Due to the highly disturbed nature of the expanded CECP footprint, Project Owner objects to drafting and implementing the requested archaeological testing plan as unnecessary and unreasonably burdensome. Project Owner will conduct cultural resources monitoring and mitigation activities during construction of the amended facility in accordance with the Cultural Resources Conditions of Certification in the Commission's Final Decision on the CECP. The Conditions of Certification are designed to ensure that significant archaeological and other cultural resources will be properly preserved and documented should Project Owner encounter any. Furthermore, the Commission's Decision on the CECP and Project Owner's comprehensive analysis for the PTA determined that due to the highly disturbed nature of the project site, Project Owner was unlikely to encounter any such resources within the project footprint.

b. Data Request Nos. 36 and 37: Project Owner objects to these Data Requests because the area shown in Staff's Data Request Figure 1 far exceeds the amended project footprint, and contains areas such as Agua Hedionda Lagoon and the strawberry fields across Interstate Highway 5 from the CECP. For the licensed CECP, Project Owner surveyed the project footprint shown in purple on Staff's Data Request Figure 1. Project Owner surveyed the expanded project footprint, shown in red on Staff's Data Request Figure 1, for the PTA analysis. As this will be the area subject to disturbance during construction of the amended project, this is the area that should be the focus of cultural resources survey.

Please contact me or my colleague Allison Harris if you have questions or would like to discuss these matters further.

Locke Lord LLP

By: 

John A. McKinsey
Attorneys for Carlsbad Energy Center LLC

JAM: awph