

DOCKETED

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VIA E-FILING

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Carlsbad Energy Center Project (07-AFC-06C)
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**Re: CARLSBAD ENERGY CENTER PROJECT
OBJECTION TO TERRAMAR DATA REQUESTS 1, 2 & 3**

Dear Commissioners and Terramar:

On September 30, 2014, Terramar filed data requests (TN 203127) with the California Energy Commission ("CEC") regarding Carlsbad Energy Center LLC's ("Project Owner") Petition to Amend ("PTA") the Carlsbad Energy Center Project ("CECP") (07-AFC-06C). Terramar directed the requests at CEC Staff.

The nature of the first three data requests, however, made them appear to be requests directed at the Project Owner. Each began with the following phrase: "Terramar is asking staff to..." and was followed by a request asking CEC Staff to direct the Project Owner to provide documents. Because these three requests could be considered data requests asked of the Project Owner, Project Owner is treating Terramar Data Requests 1, 2 & 3 as being directed at Project Owner. Accordingly, Project Owner provides the following objections to the data requests pursuant to Title 20 CCR, Sections 2025 and 1716.

20 CCR 1716(d) provides: "Any party may request from a party other than the applicant information which is reasonably available to the responding party and cannot otherwise be readily obtained, and which is relevant to the proceeding or reasonably necessary to make any decision on the notice or application. All such requests shall state the reasons for the request."

The objections to the data requests generally note that the information sought has either already been provided or asked for, or is information that is not reasonably necessary to make a decision on the PTA. Because preparing responses to these data requests would be costly and time consuming, Project Owner is compelled to object to them

Specific Objections

DATA REQUEST 1: Terramar is asking staff to request a visual representation of the Amended CECP. This visual representation should appear as close as possible to how the actual completed power plant and transmission lines (including any other significant physical structures that will be a part of this project) will be configured. It should be to scale. This visual representation should include any outer shell covering that NRG is planning to install around each unit. This is just a visual request of the plant as it appears on its own and not on site.

OBJECTION TO DATA REQUEST 1: Project Owner objects to this data request, because Project Owner has provided visual renderings of the project as it will be amended by the PTA ("Amended CECP"). Currently, Project Owner is completing revised renderings to reflect the current visual conditions in the region for all Key Observation Points. This is all that is required or useful to analyze the visual impacts of a project.

The renderings characterize the project as it will look. At the CEC Staff workshop on September 24, 2014, Terramar repeatedly asserted that visual representations of the Amended CECP have not been provided that show what the Amended CECP will look like. Project Owner suspects that what Terramar was actually asking for was a rendering of what the equipment that will be built on site will look like. This is because **the equipment will mostly not be visible outside of the site.** CEC Staff has asked for a three-dimensional model of the plant units and Project Owner has agreed to provide that. Project Owner does not believe there is any other meaningful or relevant data to provide.

DATA REQUEST 2: Terramar is asking staff to request two visual representations of the Amended CECP, as it will be sited. First, a daytime visual representation of the Amended CECP as it will actually appear on site to individuals driving along the southbound side of the I-5 as they approach the plant site. Second, a daytime visual representation of the Amended CECP as it will actually appear on site to individuals driving along the southbound side of the I-5 as they are parallel to the plant site.

We learned in the workshop, the visual representations that were presented were created before many of the eucalyptus trees were removed. We wish to see true and current visual representations. We request that they be to scale and include all transmission lines (and other significant physical structures that will be a part of the project).

OBJECTION TO DATA REQUEST 2: Project Owner objects to this data request because it seeks information that has either been provided or asked for, or information that is not reasonably required to make a decision on the PTA. The Key Observation Points ("KOPs") for CECP were selected by CEC Staff based on objective criteria so that the potential for CECP to cause any visual impacts could be assessed. The final decision of the CEC on the Application for Certification for CECP concluded that the project would not have any significant visual

October 21, 2014

Page 3

impacts. In the PTA, and in response to CEC Staff data requests, Project Owner has provided or is providing current renderings from all KOPs.

DATA REQUEST 3: Terramar is asking staff to require the petitioner to communicate their demolition schedule on a website available to the neighborhood. Terramar requests that this schedule is kept up to date and accurate. That is also have a phone number and contact person during all demolition hours. Terramar requests that this schedule communicates what the daily noise levels will each day and include a weekly and monthly forecast of demo noise. This way, Terramar residents (especially those living on Tierra del Oro) can plan their schedules around the demo noise.

OBJECTION TO DATA REQUEST 3: Project Owner objects to this data request, to the extent it is a data request. The underlying concept is very close to what is already required by Conditions of Certification. To the extent that Terramar is asking or seeking a change to or an additional Condition of Certification, a data request is not the appropriate format to do so. However, Project Owner believes that, by making this comment or request in the form of a data request, Terramar has essentially made this a topic CEC Staff will consider when issuing its Preliminary Staff Assessment.

Locke Lord LLP



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