

## DOCKETED

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VIA E-FILING

Carlsbad Energy Center Project (07-AFC-06C)  
Karen Douglas, Commissioner and Presiding Member  
Andrew McAllister, Commissioner and Associate Member  
California Energy Commission  
1516 Ninth Street  
Sacramento, CA 95814-5512

Re: Carlsbad Energy Center Project Petition to Amend (07-AFC-06C)  
Status Report 3

Dear Committee Members:

On October 30, 2014, the California Energy Commission's ("**CEC**") Carlsbad Amendments Committee docketed its Revised Committee Scheduling Order (the "**Revised Scheduling Order**") for the Petition to Amend (the "**PTA**") the Carlsbad Energy Center Project (07-AFC-06C) ("**CECP**"). Accordingly, Carlsbad Energy Center LLC ("**Project Owner**") submits this Status Report 3.

**Schedule for PSA**

Project Owner feels that necessary data have been provided to allow CEC staff to complete the Preliminary Staff Assessment ("**PSA**") according to the Revised Scheduling Order. At the time of preparing this status report there does remain one outstanding item, the formal release of the Preliminary Determination of Compliance ("**PDOC**") by the San Diego Air Pollution Control District ("**SDAPCD**"). However, because the SDAPCD staff has provided the contents of the draft PDOC to CEC staff, as described below, Project Owner believes that CEC staff can proceed to finalize the PSA with an expectation of a final PDOC which will be issued by or about the same time as the Committee Status Conference scheduled for December 3, 2014. Thus, Project Owner remains confident that the Committee Schedule remains viable.

**SDAPCD Schedule for PDOC**

The SDAPCD issuance of the final PDOC is pending. However, Project Owner understands that the SDAPCD provided CEC staff with a draft PDOC on November 12, 2014 and then a Draft Air Quality Impacts Analysis Final Review Report ("**AQIA**") and a Draft Health Risk Assessment ("**HRA**"), including all relevant modeling data, on November 21, 2014. This along with the draft

PDOC submitted to the CEC staff earlier in November means that the CEC staff has been provided with a complete draft PDOC package (i.e., emission calculations, regulatory analysis, draft permit conditions, AQIA, and HRA). The only missing item from this PDOC package is a secondary PM<sub>2.5</sub> analysis, which the SDAPCD indicated would be provided to the CEC staff shortly. The SDAPCD indicated to Project Owner that it plans to issue the final PDOC no later than the first week of December.

Project Owner believes that this schedule provides CEC staff with adequate time to issue the PSA by December 15, 2014 as scheduled in the Revised Scheduling Order. Timely submittal of the PSA is necessary to keep the CECP proceeding on track in accordance with the time frame set forth in the Revised Scheduling Order. Thus, Project Owner respectfully requests the Committee to direct Staff to prepare the PSA based on the AQIA and other relevant information currently in its possession.

### **Cultural Resources**

CEC staff's cultural resources specialists have asserted in conversations and meetings with Project Owner that they feel it is necessary to conduct field work on the site before they can complete the cultural resources assessment for the PSA. Project Owner firmly disagrees with this position. Nevertheless, for more than a month since first being informed of this issue, Project Owner has been attempting to find a mutually agreeable resolution. At this point however, when the PSA is due in two to three weeks and the Final Staff Assessment ("**FSA**") in about two months, Project Owner feels that this issue may require Committee involvement to provide the correct direction to the parties to avoid delays in reaching the timely completion of the PTA review process.

The cultural resources specialists at the CEC are interested in a particular site record and feel that the potential for a significant impact to that resource cannot be assessed based on the existing information. The site is or was generally located on the western portion of the property in the area of out-of-service oil storage tanks 1 and 2 and also near or in the switchyards on that western side. The indications at the time were that this site was significantly disturbed and subject cultural resources observed during prior investigations at the former tank 3 area<sup>1</sup> were considered re-deposited. Indeed, that entire area has been significantly disturbed in the construction history of the Encina Power Station ("**EPS**"). Project Owner has provided confidential cultural resources records and files including data from recent activities related to the Carlsbad Desalinization Project. Information is thus not lacking regarding this resource.

The PTA adds a very minor amount of new ground disturbance in that resource area by requiring the above grade demolition of EPS and oil storage tanks 1 and 2. The ground disturbance would be necessary if impacted soil is encountered requiring remediation in accordance with San Diego County Department of Environmental Health guidelines. The resource area was within the original CECP study area and thus does not present a new resource or area at issue. The Project Owner believes the potential for a significant impact to this resource remains very low. Moreover, Project Owner believes that the PTA does not significantly change the potential for impacts to this resource.

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<sup>1</sup> Oil storage tank 3 was removed as part of the Carlsbad Desalinization Project.

The existing decision for CECP includes an extensive set of Conditions of Certification (“**CoCs**”) that provide the appropriate mitigation for any potential significant impact to cultural resources. The FSA for the original licensing proceeding determined that “while significant archaeological and historical sites were not discovered during the field surveys for the CECP, since numerous archaeological sites were previously recorded nearby, it is possible that subsurface construction could encounter buried archaeological deposits. As such, the CEC proposes measures to mitigate any potential adverse impacts that could occur due to any inadvertent discoveries of buried cultural resources.” (FSA at p. 4.3-13.) CEC staff found, and ultimately the Committee and Commission agreed, during the original CECP proceeding that no additional cultural analysis, data collection, record search, or field work was required and that the CoCs were sufficient to protect cultural resources during construction. The overall area of potential effect is not changed under the PTA and the existing CoCs and mitigation measures provide for preservation of cultural resources that may result from the very minor additional subsurface impacts to soils that may result from the tank demolition work as proposed in the PTA.

Thus, Project Owner is certain that no further cultural resources work is necessary in order for CEC staff to complete its assessment in the PTA proceeding. Based on the foregoing, Project Owner respectfully requests the Committee to direct CEC staff to complete its assessment without excavating the site for additional cultural resources data.

### **Power of Vision Data Requests**

On October 7, 2014, Power of Vision (“**POV**”), intervenor in the CECP PTA proceeding, filed data request set 2 with the CEC. The data requests relate to the design of the generator tie-in transmission lines, the view of those lines relevant to I-5, and the possible future changes to I-5. Project Owner filed its objections to POV’s data requests on Oct. 21, 2014, asserting, among other things, that the requested data is not necessary for the Committee to reach a decision on the PTA. On November 17, 2014, POV filed a Petition to the Committee for an Order Directing the Applicant to Supply Responses to POV Data Request Numbers 8, 9, 11, 12, and 13 (the “**Petition**”). On November 26, 2014, Project Owner filed its response to the Petition, re-affirming its objections to POV’s data requests. For the reasons set forth in Project Owner’s response to the Petition, Project Owner respectfully requests that the Committee reject POV’s Petition.

### **Conclusion**

Project Owner continues to appreciate the hard work and diligence that CEC staff is applying to the assessment of this PTA. Project Owner will continue cooperating with all parties while looking towards the timely completion of the CEC review of the PTA.

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By: 

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