

DOCKETED

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Project Title:	Carlsbad Energy Center - Compliance
TN #:	203392
Document Title:	Staff Status Report #3
Description:	Energy Commission Staff's monthly status report re: Carlsbad Energy Center Project Amendment, 07-AFC-6C
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Memorandum

Date: December 1, 2014
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To: Commissioner Karen Douglas, Presiding Member
Commissioner Andrew McAllister, Associate Member
Paul Kramer, Chief Hearing Officer

From: California Energy Commission – Jon R. Hilliard, Project Manager
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Subject: **CARLSBAD ENERGY CENTER PROJECT AMENDMENT (07-AFC-6C)
STATUS REPORT #3**

Pursuant to the Committee Scheduling Order dated September 25, 2014, staff issues Status Report (#3) for the proposed Carlsbad Energy Center Project (CECP) Amendment, 07-AFC-6C.

Discovery and Analysis

The discovery phase for the amended CECP (comprising proposed modifications to the May 31, 2012 licensed CECP contained in two separate, yet complimentary, petitions to amend) ended on October 29, 2014, per Committee order. Also per Committee order, petitions (filed on April 29, 2014 and May 2, 2014) were consolidated into one on September 23, 2014.

Since publication of Status Report #2 on October 2, 2014, petitioner has provided responses to the following Data Requests:

- **Set 3:** Noise (Nos. 67-72), Transmission System Engineering (Nos. 73-76), and Visual Resources (Nos. 77-84), docketed October 31, 2014 (TN203300). The petitioner provided substantive response to Noise and Transmission System Engineering Data Requests, and objected to the Visual Resources Data Requests on the basis that the requested visual impact diagrams, landscape plans, and site reference cross sections were not necessary for the Committee to reach a decision on the amended CECP. Staff is completing the Visual Resources section of the Preliminary Staff Assessment, and will continue to work with all parties regarding the appropriate level of visual information.
- **Set 2:** Visual Resources (No. 58) docketed November 4, 2014 (TN203311),
- **Set 4:** Transmission System Engineering (No. 74) docketed November 4, 2014 (TN203313), and
- **Set 4:** Soil and Water Resources (Nos. 86-90) and Transmission System Engineering (Nos. 91 and 92) docketed November 21, 2014 (TN203363).

Response to Petitioner's Status Report

On November 26, 2014 the petitioner filed the Project Owner's Status Report #3 (TN2032384), which notes its continued objection to previous Data Requests pertaining to Cultural Resources (Data Request nos. 34 and 35) docketed on August 24, 2014 (TN202992). Staff requested that the petitioner examine the subsurface extent and California Register of Historic Resources (CRHR) eligibility of two known prehistoric archaeological sites in areas of the amended CECP where there will be ground-disturbance (see diagram, Exhibit A, attached). Staff disagrees with the petitioner's characterization of the need for additional information regarding the two cultural resources (CA-SDI-16885 and unknown prefix 210/W-127A) discussed in Project Owner's Status Report #3 because:

- Despite the petitioner's characterization of ground-disturbance as "very minor", the amended CECP definitively proposes ground-disturbing activities at the aforementioned sites, where previously there were none.
- Per Title 14, California Code of Regulations, section 15064.5(c)(1), the Energy Commission is obliged to determine whether archaeological sites that will be impacted by the project are historical resources.
 - The affected portion of CA-SDI-16885 has not been evaluated as an historical resource.
 - Unknown prefix 210/W-127A has never been evaluated as an historical resource.
- Staff has requested access to the sites from the petitioner to conduct archaeological testing of these sites itself, but has not yet received approval to access the site. If site access is allowed to conduct testing, impacts to the FSA schedule is not anticipated.
- The existing conditions of certification are not adequate mitigation measures for impacts to CA-SDI-16885 and unknown prefix 210/W-127A; application of these conditions could needlessly damage the sites through mechanical excavation without first evaluating their historical significance as required by CEQA. Absent the information the site testing would provide, staff is currently unable to make eligibility recommendations and recommend mitigation measures, if appropriate.

Status of PSA Publication

The Committee Order Schedule issued October 30, 2014 anticipated publication of the Preliminary Staff Assessment (PSA) by December 15, 2014, 45 days following the expected release of the San Diego County Air Pollution Control District's (APDC) Preliminary Determination of Compliance (PDOC). The PDOC was initially expected by late October, 2014 but the APCD has indicated it may not be issued until early December, 2014.

cc: Docket (07-AFC-6C)
Proof of Service List

