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VIA E-FILING

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

Re: **Carlsbad Energy Center Project
Opposition To Terramar Motion To Delay PSA Workshop**

Dear Commissioners and Terramar:

On December 24, 2014, Terramar filed a Motion to Delay the PSA Workshop Until February 2014 (TN 203479) ("Motion to Delay") 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's Motion to Delay also states that it includes a request to extend the Preliminary Staff Assessment ("PSA") comment period beyond the date the PSA workshop is scheduled. For the reasons provided below, Project Owner Opposes the Motion to Delay and respectfully requests the Committee to reject the Motion to Delay.

1. Scheduled Events For the PSA Are Reasonable, Typical and Meet All Regulatory Time Period Requirements.

The schedule of events including both the October 30, 2014 Revised Committee Scheduling Order and the events and deadlines set by CEC Staff in the issuance of the PSA satisfy applicable regulatory requirements, are fair and reasonable, and typical of the CEC process. In fact, the Motion for Delay does not cite any legal inadequacy in the dates set by CEC staff.

There is no statutory or regulatory requirement for a minimum time period for comments on a PSA. The deadline for comments is imposed by Staff is 30 days post-PSA issuance. This deadline meets basic notice requirements and provides parties with an adequate opportunity to provide

comments. The deadline imposed by Staff is also entirely reasonable in light of the need to keep the CECP proceeding moving forward at an efficient pace. A 30-day comment period is also typical for most staff documents and other siting documents that do not otherwise have a specific time period requirements. Staff has used a 30-day deadline in numerous other licensing cases, including those that cross holidays and there is no need to deviate from this pattern in the CECP proceeding. Further, all parties were forewarned of the imminent issuance of the PSA, thus it was not a surprise at all when it was issued. Here, the amount of time between PSA issuance and the comment deadline provides ample opportunity for all parties to evaluate and provide comments on the PSA.

In making its request to delay the PSA Workshop, Intervenor Terramar appears to misunderstand the purpose of a PSA workshop. The primary purpose of a staff workshop is to provide an opportunity for parties to discuss issues and work toward solutions for them. Further, by requesting comments prior to the workshop, CEC staff further encourages parties appearing at the workshop to be prepared to discuss issues and work towards resolution of them. The workshop also provides the public an opportunity to make comments to CEC staff directly rather than submitting them in writing.

2. Participation in SDAPCD Process is Separate, Distinct and Optional from a Party's Duties and Role in CEC Proceeding.

One basis for the Motion to Delay appears to be founded upon a misunderstanding or mischaracterization of the relationship between the CEC process evaluating a PTA and the San Diego Air Pollution Control District ("SDAPCD") process evaluating an air permit application. The Motion to Delay seeks a delay in the CEC process to allow Intervenor Terramar a period of time to evaluate, and presumably participate in the SDAPCD process. The CEC process and the SDAPCD process are separate proceedings, however, that have only some related aspects. A person or entity that becomes a party in a CEC proceeding is only obligated to participate in the CEC proceeding, fulfilling their duties as a party. Participation in the related, but separate, air district proceeding is an optional decision that a party makes independent of its role in a CEC proceeding. For these reasons the desire to participate in the SDAPCD's Determination of Compliance process is not a basis for delaying CEC process, including the scheduling of the PSA workshop or setting of PSA comment deadlines.

Conclusion

Because Intervenor Terramar did not provide any legal basis changing the PSA workshop and comment deadline dates and because the schedule set by CEC staff is typical, reasonable and fair, there is no basis for an order directing CEC staff to delay either event. For these reasons, Project Owner opposes Intervenor Terramar's Motion to Delay and re-affirms its support of the remaining deadlines set forth in the October 30, 2014 Revised Committee Scheduling Order. Project Owner respectfully requests that the Committee reject the Motion to Delay.

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