

DOCKETED

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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

Petition to Amend
The Carlsbad Energy Center

Docket Number 07-AFC-06C

**ROBERT SARVEY’S MOTION TO REQUIRE THE APPLICANT TO SET ASIDE
FUNDING FOR DEMOLITION OF THE AMENDED CARLSBAD ENERGY CENTER**

Robert Sarvey hereby moves that the applicant Carlsbad Energy be required to set aside 3 million dollars a year for the purpose of demolishing the Amended Carlsbad Energy Center after it has reached the end of its useful life. The 3 million dollars would be assessed at the end of every year that the Carlsbad Energy Center operates commencing with the first year of operation. The project license should include a condition of certification requiring the set aside of the funding. The amount is reasonable as according to SDG&E’s July 2014 bill insert the project’s PPTA cost is 2.6 BILLION DOLARS for the 20 year term of the contract. That amounts to 130 Million dollars a year for 20 years. Construction of the amended CECP is expected to only cost \$455 - \$595 million according to the socioeconomics portion of the CEC Staff Final Staff Assessment.¹

Background

Abandoned power infrastructure litters the landscape of California. While power companies are eager to build new ones municipalities and regulators fail to include conditions in the power plant permits that require demolition of the power plants once they reach the end of their useful lives. Abandoned power plants are a visual blight but they are also very dangerous facilities with many hazardous materials and dangerous conditions. In many of the CEC

¹ CEC Final Staff Assessment page 513 of 1111

proceedings that I have participated in abandoned or soon to be abandoned power plants are located on the proposed project sites. In the Mariposa Project there as an abandoned cogen plant that was unsightly and dangerous.²



Mariposa Energy Site Abandoned cogen³

In the Consumnes proceeding SMUD's abandoned Rancho Seco nuclear power plant was used as an excuse by CEC Staff and the Commission decision to conclude that SMUD's Consumnes power project had no visual impact because the site was already visually degraded by the Rancho Seco Nuclear Facility. Intervnors urged a condition of certification that would include demolition of the Rancho Seco plant since SMUD owned Rancho Seco and the proposed Consumnes Plant. The Rancho Seco Plant stands today looming over the landscape with no demolition in sight despite the fact that it clearly degrades the visual area for many miles. As the Commission decision states, "*Some local residents, typified by Ms. Peasha, believe that their view shed will be further degraded by the project. The Commission finds that the incremental effect of the project is not cumulatively considerable, due to the comparatively overwhelming effect of Rancho Seco.*"⁴

² As stated in the final Decision "The geographic scope for the purposes of the visual cumulative analysis includes the unincorporated area of the County of Alameda shown in **Visual Resources Figure 1** - Aerial View of Mariposa Energy Project Site and Vicinity. Existing projects within this geographic include: Byron Power Cogeneration Plant, a 6 MW co-generation/brine wastewater." (Mariposa CEC Final Decision Page 504 of 597 distillation facility originally permitted by the County of Alameda in 1989.)

³ Mariposa CEC Staff Assessment Page 527 of 805 www.energy.ca.gov/2010publications/CEC-700-2010-017/CEC-700-2010-017.PDF

⁴ Consumnes Power Plant Project Commission Final Decision Page 168 www.energy.ca.gov/sitingcases/smud/documents/2003-09-10_DECISION.PDF



The Morro Bay Power Plant much like the Encina Power Plant degrades California's beautiful coastline. As often happens in CEC siting proceedings the existing Power Plant on site is used as the existing visual baseline to conclude that the proposed power plant has no significant visual impacts. As stated in the CEC 3rd Revised PMPD, *"For the purposes of the Commission's visual analysis pursuant to CEQA and the Warren-Alquist Act, the baseline against which Project impacts are evaluated consists of the existing Morro Bay view scape, including the existing power plant with its three 450-foot stacks, its power plant building measuring 500-feet long, 300-feet deep, and 148-feet high, as well as an adjacent tank farm."*⁵



⁵ Page 571 of 707

In the original proceeding for the CECP the City of Carlsbad went to great lengths and spent considerable money opposing the CECP.⁶ The removal of the existing Encina Power Plant was a highly contested issue. Subsequently the removal of the existing Encina Power Plant was used as a tool of extortion to get the City of Carlsbad to agree to support a power plant that they vigorously opposed in the original proceeding. It was recommended by Intervenor Rob Simpson that the applicant Carlsbad Energy set aside money to demolish the CECP at the conclusion of its useful life. The original Carlsbad decision addressed the issue:

“Intervenor Rob Simpson asks, in an RPMPD comment, that funding be set aside for the retirement of the CECP facility, specifically a condition that the “Developer is to deposit \$10,000,000 per year with the Commission until it can demonstrate adequate funds to dismantle the facility upon retirement.” The Commission has not previously imposed such a requirement. No evidence suggests that failing to remove this facility after it ceases generating electricity will have any unmitigable signific[ant] environmental impacts. The policy question raised by Mr. Simpson’s request is worthy of further study, however, and we refer it to the Commission’s Integrated Energy Policy Report Committee for future consideration.” Compliance/Closure section, p. 4-2.⁷

The evidence in this proceeding is conclusive that construction of the amended CECP will be a LORS violation of the 35 foot maximum height limitation of the Agua Hedionda Local Coastal Program Land Use Implementation Plan, adopted in 1982. Staff’s analysis also states that there will be a significant cumulative environmental effect requiring changes or alterations of the project within the responsibility or jurisdiction of another public agency (Cal Trans) which can and should provide such mitigation.⁸ Cal Trans has stated they have no room on their property to complete the visual mitigation.⁹ Once the amended CECP is no longer in operation it will no longer be needed for the public convenience and necessity but the inconsistency of the amended CECP with the 35 foot height limitation of the Agua Heidionda Land Use Plan and the visual impact will still remain. The findings of public convenience and necessity for override of this land use inconsistency will no longer be relevant when the project ceases operation.¹⁰ The

⁶ The original decision also used the Encina Power Plant to decide that the project area is already visually blighted and some significant impacts at some KOP’s were deemed less than significant because of the presence of the Encina power plant. “ Visual Resources Finding of Fact 2. For the purposes of the Commission’s visual analysis pursuant to CEQA and the Warren-Alquist Act, the baseline against which project impacts are evaluated consists of the existing viewscape, including the existing Encina Power Station power plant and an adjacent tank farm, Interstate 5, the BNSF railway and other man-made and natural features described in this Decision. CECP Decision page 486 of 582

⁷ CEC Final Decision Carlsbad energy Center Page 4-2.

⁸ FSA Page 678 of 1111

⁹ TN 203790

¹⁰ 1. The CECP facility is required for public convenience and necessity. There are not more prudent and feasible means of achieving public convenience and necessity

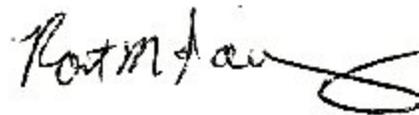
Commission must require a set aside of funding for demolition of the amended CECP to eliminate the land use inconsistency and prevent NRG from again extorting the City of Carlsbad to accept yet another power plant that does not meet their land use or the Coastal Commissions land use LORS after the useful life of the amended CECP as the project will no longer be needed for the public convenience and necessity.

Conclusion

I move that a condition of certification be included in the compliance and closure section of the amended CECP as follows:

COM-17 After the project commences operation the project owner will set aside \$3,000,000 every year on the anniversary of the commercial operation date to fund the demolition of the amended Carlsbad Energy Center at the end of its useful life.

Respectfully Submitted,



Robert M. Sarvey March 20, 2015

2. The CECP benefits outweigh the significant direct and cumulative impacts identified above. (CEC final Decision Carlsbad Energy center page 506 of 582)