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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

Petitions to Amend The
CARLSBAD ENERGY CENTER PROJECT

DOCKET NO. 07-AFC-06C

CARLSBAD ENERGY CENTER LLC'S
COMPLIANCE REBUTTAL TESTIMONY

March 24, 2015

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In written testimony submitted on March 11, 2015, Terramar Association (“Terramar”) raised concerns regarding COM-16. COM-16 is a condition of certification (“COC”) that was added to the Final Staff Assessment (“FSA”) to ensure that tank demolition activities that were compliant when performed under the original Carlsbad Energy Center Project (“CECP”) license do not become non-compliant when the California Energy Commission (“CEC”) grants Project Owner’s Petition to Amend (“PTA”) the CECP.

Terramar’s written testimony objected to the inclusion of COM-16 as a COC. Terramar suggested that “[a]s there have been a number of new conditions proposed regarding the ACECP that were not part of the original CECP. . . these new conditions must also be followed if any activity is allowed to start prior to licensing.” (TN-203851, p. 46).

Currently, Project Owner is proceeding under the existing CECP license, with approval from the Compliance Project Manager (the “CPM”), to demolish Encina Power Station above-ground storage tanks (“ASTs”) 5, 6, and 7. This activity is being done in compliance with the COCs that govern the licensed CECP.

If it is Terramar’s position that the actions Project Owner is currently taking to demolish ASTs 5, 6, and 7 are governed by the revised COCs proposed by CEC Staff in their evaluation of the PTA rather than the COCs currently approved by the CEC in the CECP license, then Project Owner does not agree. Terramar does not cite any authority for such an interpretation nor does such an interpretation make sense. The logical extreme would be that, in some instances, Project Owner might have to ignore the current license in order to comply with a COC that has no binding effect at the time of the action and might be subsequently changed by the Committee reviewing the PTA.

Similarly, if it is Terramar’s position that actions compliant with the current license which are performed prior to CEC approval of the PTA could become retroactively non-compliant where COC revisions alter Project Owner’s obligations, then Project Owner does not agree. In such a scenario, Project Owner could be punished for doing exactly what the CEC has mandated while demolishing ASTs 5, 6, and 7.

If it is Terramar's position that Project Owner must follow the amended license once it is approved and goes into effect, Project Owner agrees. If demolition work for ASTs 5, 6, and 7 is active and ongoing at the time the amended license goes into effect, the Project Owner has no objection to following limitations imposed by revised COCs governing the amended license. For example, in the current license, NOISE-6 limits noisy construction work to the hours of 7:00 a.m. to sunset on weekdays. In their evaluation of the PTA, CEC Staff has proposed limiting noisy construction and demolition work to the hours of 7:00 a.m. to 6:00 p.m. on weekdays. If the CEC accepts this alteration and makes it a binding COC of the amended license, Project Owner fully expects that all construction and demolition work, then ongoing, must comply with the new requirement.

However, where an action related to demolition of ASTs 5, 6, and 7 required authorization under the original license, project owner should not have to stop work and re-obtain authorization just because the license has been amended. For example, Staff has proposed minor modifications to CUL-1. CUL-1 requires Project Owner to submit a Cultural Resources Specialist ("CRS") resume to the CPM for review and approval at least 45 days prior to tank demolition. It would be an absurd result if, once the amended license is approved, project owner was required to stop all ongoing demolition activities for ASTs 5, 6, and 7, resubmit the resume of an approved CRS, and then wait 45 days to restart demolition.

Given the various possible interpretations of COM-16, and Terramar's objection to it, it is clear that the current language of the COC is ambiguous. Therefore, Project Owner proposes changing COM-16 to clarify Project Owner's compliance obligations

Project Owner's proposed change:

COM-16: Previously Licensed Activities in Progress Prior to Approval of the Amended CECP.

~~Any activity **Tank 5, 6, and 7 demolition activities that were** authorized to start prior to the effective date of the Commission Decision approving the Amended CECP license **shall not be required to be re-authorized because of changed requirements in the Amended CECP license.** is in compliance with this license if it is conducted under, and in compliance with, the original CECP license.~~

Such activities shall, however, comply with the active and ongoing requirements of all conditions that are in effect under the Amended CECP license.

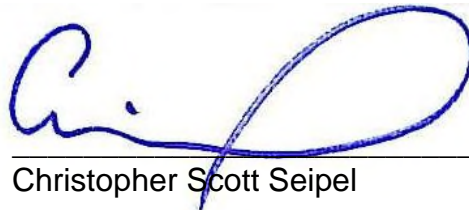
**DECLARATION OF
CHRISTOPHER SCOTT SEIPEL**

I, **Christopher Scott Seipel**, declare as follows:

1. I am presently employed by The Source Group, Inc., as a Principal Hydrogeologist.
2. A copy of my professional qualifications and experience is docketed in this proceeding in TN-203811, at pages 12 through 16, and incorporated by reference herein.
3. My testimony in the area of Compliance Conditions of Certification, is based on my independent analysis of the Petition to Amend, Petition to Remove, the 2012 Commission Decision for the Carlsbad Energy Center Project (CECP), and supplements hereto, the Final Staff Assessment, data from reliable documents and sources, and my professional experience and knowledge.
4. I attest to the accuracy of my testimony, and support its conclusions, findings and recommendations hereto.
5. It is my professional opinion that the prepared testimony is valid and accurate with respect to the issues addressed therein.
6. I am personally familiar with the facts and conclusions related in the testimony and if called as a witness could testify competently thereto.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: March 24, 2015



Christopher Scott Seipel

At: Carlsbad, California