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STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

In the Matter of:

DOCKET NO. 07-AFC-06C

Petitions to Amend The
CARLSBAD ENERGY CENTER PROJECT

CARLSBAD ENERGY CENTER LLC'S
RESPONSE TO TERRAMAR ASSOCIATION'S MOTION TO ADD A CONDITION

On June 24, 2015, Intervenor Terramar Association (“**Terramar**”) filed its Motion To Add A Condition (the “**Motion**”). The Motion requests that the Carlsbad Amendment Committee (the “**Committee**”), in its review of the Petition to Amend (the “**PTA**”) the Carlsbad Energy Center Project (the “**CECP**”), add a new Condition of Certification (“**CoC**”) on the CECP. Terramar’s proposed CoC would either require all tractor-trailer vehicles to use the Avenida Encinas exit to travel eastbound on Cannon Road or require Carlsbad Energy Center LLP (“**Project Owner**”) to hire a full-time flag person for the next five years to help such vehicles exit at the SDG&E Service Gate. The Motion is motivated by Terramar’s concern that a red light at the Cannon Road and Avenida Encinas intersection could force a trailer-truck involved in CECP demolition / construction activities to stop on the railroad tracks that cross Cannon Road.

Project Owner shares Terramar’s concern for railroad safety. TRANS-1, as proposed in the Presiding Member’s Proposed Decision (“**PMPD**”), addresses the very concern raised by Terramar. It requires Project Owner to develop and implement a traffic control plan that addresses safety considerations to avoid blockage of the railroad tracks by large vehicles when exiting the SDG&E Service Gate to travel east on Cannon Road. TRANS-1 will require Project Owner to consult with the City of Carlsbad in developing the plan. Final approval of the plan rests with Commission’s Compliance Project Manager. Project Owner agrees with CEC Staff and the Committee that implementation of this condition capably addresses concerns about truck traffic and the intersection.¹ Accordingly, for the reasons stated below, Project Owner requests that the motion be denied.

I. The Safety Concern Raised in the Motion Is the Same Safety Concern Previously Raised and Considered During the Course of these Proceedings.

During the Preliminary Staff Assessment (“**PSA**”) Workshop, and in their comments on the PSA, Terramar raised concerns about whether trucks could safely exit the SDG&E Service Gate due to the potential that they could get stopped over the tracks by a red light. In response to those concerns, CEC staff examined whether a condition should be imposed that would prohibit large trucks from using the SDG&E Service Gate exit. They consulted Jon Kim, an Associate

¹ TN-203981, pp. 18 – 19; TN-204954, p. 8.2-2 – 8.2-4.

Engineer with the City of Carlsbad, who indicated that he did not think a prohibition on truck traffic exiting onto Cannon Road was necessary.² Staff ultimately determined that the better approach was to require Project Owner to incorporate safety considerations related to the use of the intersection into a traffic control plan.³ This would allow Project Owner, along with the City of Carlsbad and the CEC Staff, to identify issues associated with using the roadway and devise means of safely doing so.⁴ Staff's proposal requires the Project Owner to submit the plan to the City of Carlsbad for review and comment.⁵ It also requires submittal to the CEC's Compliance Project Manager for review and approval.⁶

At the Evidentiary Hearings, Kerry Siekmann provided testimony, on behalf of Terramar, about an event that she observed when a truck stopped over the tracks because of a red light.⁷ CEC Staff presented testimony that they believed that the TRANS-1 CoC proposed in the FSA Supplement would address issues related to the safe use of the Cannon Road exit.⁸ Robert Mason testified, on behalf of Project Owner, that TRANS-1 would ensure safe use of the SDG&E Service Gate.⁹ Mr. Mason further testified that prohibiting the use of that exit also presented safety concerns with large trucks due to grading and slope issues at the internal rail crossing which would need to be used to exit onto Avenida Encinas.¹⁰ The Committee, after considering the record, determined that adopting the TRANS-1 CoC proposed by Staff in the FSA Supplement was the best course to ensure that any risks associated with the railroad tracks would be mitigated.¹¹

Terramar's Motion addresses the same exact concerns that Terramar previously raised. They are the same concerns that Staff examined. They are the same concerns that testimony was given on. They are the same concerns that the Committee addressed in detail in the PMPD. They are the same concerns that can be effectively addressed through the implementation of the traffic control plan required in TRANS-1 of the PMPD. Terramar's Motion should be denied because the issue has already been thoroughly considered.

II. CoC TRANS-1 Provides Regulatory Assurance of Safety Regarding the Railroad Crossing.

Terramar is not alone in wanting to make sure that trucks can safely exit the project site. Throughout all phases of the CECP, Project Owner's highest concern is safety. Project Owner is confident that the CEC and the City of Carlsbad share that same concern.

As previously noted, this particular issue has been thoroughly reviewed by CEC Staff and the Committee. After considering the record in its entirety, the Committee adopted the TRANS-1

² TN-203981, p. 18.

³ TN-204130, p. 137.

⁴ TN-204954, p. 8.2-2.

⁵ TN-203981, p. 18.

⁶ *Id.*

⁷ TN-204130, pp. 140 – 143.

⁸ TN-204130, pp. 136 – 137.

⁹ TN-204130, p. 134.

¹⁰ TN-204130, pp. 143 – 144.

¹¹ TN-204954, pp. 8.2-2 – 8.2-4.


CoC proposed by Staff in their FSA Supplement. In doing so, the Committee determined that regulatory assurance of safety regarding the railroad crossing can be provided by requiring Project Owner to incorporate safety considerations related to that crossing into a traffic control plan that will be reviewed by the City of Carlsbad and approved by the CEC's Compliance Project Manager. Project Owner agrees with the PMPD finding that "[i]mplementation of TRANS-1 will address potential conflicts with truck traffic using the Cannon Road Gate and crossing over the nearby rail line."¹² Project Owner accepts the TRANS-1 CoC and will implement the condition to ensure safe use of the SDG&E Service Gate exit and safe truck crossing of the rail line on Cannon Road. In their comments on the PMPD, CEC Staff did not object to the Committee's adoption of TRANS-1 and it can be expected that the Compliance Project Manager will be prepared to perform its role in reviewing and approving the traffic control plan.¹³ The City supports this condition and is prepared to perform its obligation in reviewing the plan.¹⁴ Terramar's Motion should be denied because TRANS-1, as proposed by the PMPD, capably ensures that trucks can safely exit the project site during construction and demolition.

III. Conclusion.

Project Owner shares Terramar's concerns about safety. The issue raised by Terramar, however, is an issue that has been thoroughly addressed during the course of these proceedings. After reviewing the record, and in response to safety concerns, the Committee adopted TRANS-1 as proposed by CEC Staff in the FSA Supplement. TRANS-1 provides regulatory assurance that trucks involved in CECP construction and demolition can make safe rail crossings on Cannon Road. Accordingly, Project Owner requests that the Motion be denied.

Dated: June 26, 2015

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¹² TN-204954, p. 8.2-4.

¹³ TN-205161.

¹⁴ See City of Carlsbad's Comments on the PMPD (TN-205164).