

DOCKETED

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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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PETITIONS TO AMEND THE
CARLSBAD ENERGY CENTER PROJECT

Docket No. 07-AFC-06C

(PROPOSED)
COMMISSION ADOPTION ORDER

This Commission Order adopts the Presiding Member's Proposed Decision (PMPD), and the recommendations set forth therein for the Petitions for Amendment for the Carlsbad Energy Center Project (ACECP). The Commission Decision consists of the PMPD docketed June 9, 2015 (TN 204953) as modified by the Errata docketed on July 15, 2015 (TN 205362). The Commission Decision is based upon the evidentiary record of these proceedings and takes into consideration the comments received prior to and at the July 30, 2015, Business Meeting. The Commission Decision contains a summary of the proceedings, the evidence presented, and the rationale for the findings reached and conditions imposed.

This Order incorporates by reference the text and evidence referred to in the PMPD and the Errata to the PMPD. The requirements contained in the Commission Decision ensure that the proposed facility will be designed, sited, and operated in a manner to protect environmental quality, to assure public health and safety, and to operate in a safe and reliable manner.

FINDINGS

The Commission hereby adopts the following findings, pursuant to the California Environmental Quality Act (California Public Resources Code section 21000 et seq.), the Warren-Alquist Act (California Public Resources Code section 25000 et seq.) and the Energy Commission Regulations (California Code of Regulations, Title 20), in addition to those contained in the Commission Decision:

1. The ACECP would benefit the local and regional study areas in terms of an increase in local expenditures and payrolls during construction and operation of the facility, as well as a possible benefit to public finance and local economies through taxation. These activities will provide a degree of economic benefits to the local area. In addition, the ACECP increases consistency between the project and local land use regulations; reduces water usage and eliminates the use of

ocean water for cooling; and removes the existing EPS power plant, thus improving visual aesthetics in the area

2. Implementation of the Conditions of Certification contained in the Commission Decision will ensure that the ACECP will be designed, sited, and operated in conformity with applicable local, regional, state, and federal laws, ordinances, regulations, and standards, including applicable public health and safety standards, and air and water quality standards.
3. Implementation of the Conditions of Certification contained in the Commission Decision will ensure protection of environmental quality and assure reasonably safe and reliable operation of the facility. The Conditions of Certification also assure that the project will neither result in, nor contribute substantially to, any significant direct, indirect, or cumulative environmental impacts except for those described in the Override Findings section of the Commission Decision.
4. Changes or alterations have been incorporated into the ACECP which mitigate or lessen the impacts of the amended project and will be beneficial to the public.
5. The ACECP is required for public convenience and necessity. There are not more prudent and feasible means of achieving the public convenience and necessity.
6. The ACECP's benefits outweigh the significant environmental impacts identified in the Commission Decision.
7. The ACECP's benefits outweigh the non-conformity between the ACECP and the local land use requirements regarding the permitted heights of structures in the land use zone in which it will be built.
8. Existing governmental land use restrictions are sufficient to adequately control population density in the area surrounding the facility and may be reasonably expected to ensure public health and safety.
9. No feasible alternatives to the ACECP would reduce or eliminate any significant environmental impacts of the project.
10. The evidence does not establish the existence of any environmentally superior alternative site.
11. An environmental justice screening analysis was conducted and the ACECP, as mitigated, will not have a disproportionate impact on low-income or minority populations.

12. The Commission Decision contains a discussion of the public benefits of the ACECP as required by Public Resources Code section 25523(h).
13. The Commission Decision contains measures to ensure that the planned, temporary, or unexpected closure of the ACECP will occur in conformance with applicable laws, ordinances, regulations, and standards.
14. The proceedings leading to the Commission Decision have been conducted in conformity with the applicable provisions of Commission regulations governing the consideration of an amendment to an approved Application for Certification and thereby meet the requirements of Public Resources Code sections 21000 et seq. and 25500 et seq.

ORDER

Therefore, the Commission **ORDERS** the following:

1. The PMPD docketed on June 9, 2015, TN 204953, and the Errata docketed on July 15, 2015, TN 205362, are hereby adopted as the Commission Decision and incorporated by reference into this Order.
2. The Carlsbad Energy Center Project Amendments as described in the Commission Decision are hereby granted and a certificate to construct and operate the project is hereby granted.
3. The approval of the Carlsbad Energy Center Project Amendments is subject to the timely performance of the Conditions of Certification and Compliance Verifications. The Conditions and Compliance Verifications are integrated with this Order and are not severable therefrom. While the project owner may delegate the performance of a Condition or Verification, the duty to ensure adequate performance of a Condition or Verification may not be delegated.
4. This Order is adopted, issued, effective, and final on the date this Order is docketed.
5. Reconsideration of this Order is governed by Public Resources Code, section 25530.
6. Judicial review of this Order is governed by Public Resources Code, section 25531.
7. The Commission hereby adopts the Conditions of Certification, Compliance Verifications, and associated dispute resolution procedures set forth in the Commission Decision as its mitigation monitoring program required by Public Resources Code section 25532. All Conditions take effect immediately upon

adoption and apply to all construction and site preparation activities including, but not limited to, ground disturbance, site preparation, and permanent structure construction.

8. This Order licenses the project owner to commence construction on the project Subject to the provisions of California Code of Regulations, title 20, section 1720.3, this license expires by operation of law when the project's start-of-construction deadline passes with no construction.
9. The Executive Director of the Commission shall transmit a Notice of Decision and appropriate accompanying documents, as provided by Public Resources Code section 25537, and California Code of Regulations, title 20, section 1768.
10. Pursuant to Public Resources Code section 25523(d)(1), the Executive Director of the Commission shall notify the appropriate agencies of the Commission's adoption of findings pursuant to Public Resources Code section 25525.

CERTIFICATION

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on July 30, 2015.

AYE:
NAY:
ABSENT:
ABSTAIN:

Dated: July 30, 2015, at Sacramento, California.

Tiffani Winter
Secretariat
California Energy Commission