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CALIFORNIA ENERGY COMMISSION

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NOTICE OF DETERMINATION

PETITION TO AMEND THE AMENDED CARLSBAD ENERGY CENTER PROJECT (07-AFC-6C)

On August 11, 2017, Carlsbad Energy Center LLC (Project Owner) filed a Petition to Amend (PTA) with the California Energy Commission (Energy Commission) requesting to modify the Final Decision for the Amended Carlsbad Energy Center Project (ACECP). The 632-megawatt, simple-cycle project was certified by the Energy Commission on May 31, 2012. The facility is under construction and is located in the City of Carlsbad, in San Diego County.

DESCRIPTION OF PROPOSED MODIFICATION

The Project Owner requires a communication line to be established and operational by November, 2017 in order to start the commissioning of equipment in the ACECP control room and communication with the California Independent System Operator (CAISO) and San Diego Gas & Electric (SDG&E) for future ACECP plant operations.

The purpose and necessity of the conduit for communications services have been discussed in the 2007 Application for Certification (AFC) and 2014 PTA for the Carlsbad Energy Center Project. The provider of these communication services, Cabrillo Power I LLC (Cabrillo), is the landlord for ACECP and has also been referenced in the AFC and PTA. The new conduit segment and the existing conduit segment leading to the eastern ACECP parcel will be owned and maintained by Cabrillo. A specific conduit run was not defined in the AFC or the 2014 PTA and thus a PTA is needed at this time now that the route has been identified. Cabrillo was previously identified to provide these communication services in both the AFC and 2014 PTA.

The Project Owner is proposing to trench 520 feet between two existing conduit junction boxes and install conduit entirely within the EPS property boundary to bridge between two existing conduit runs at EPS. For this work, the Project Owner intends to follow the ACECP conditions of certification, including abiding by applicable compliance plans.

The Energy Commission's webpage for this facility, <http://www.energy.ca.gov/sitingcases/carlsbad/index.html>, has a link to the amendment petition on the right side of the webpage in the box labeled "Compliance Proceeding." Click on the "Documents for this Proceeding (Docket Log)" option.

ENERGY COMMISSION STAFF REVIEW AND DETERMINATION

Energy Commission staff reviewed the petition for potential environmental effects and consistency with the Energy Commission Decision and applicable laws, ordinances, regulations, and standards (LORS). Energy Commission staff has determined that the proposed modification would have no significant adverse impacts. In addition, the project modification would not significantly affect any population including the Environmental Justice population as shown in the attached **Figure 1 Environmental Justice Population Figure**. Staff's conclusions in each technical area are summarized in **Table 1**, below.

Table 1
Summary of Staff Responses to Petition

| TECHNICAL/ENVIRONMENTAL AREAS REVIEWED | STAFF RESPONSE | | | Revised Conditions of Certification Recommended |
|--|-----------------------------|--------------------------------------|----------------------|---|
| | Technical Area Not Affected | No Significant Environmental Impact* | Process As Amendment | |
| Air Quality | | X | N/A | N/A |
| Biological Resources | | X | N/A | N/A |
| Cultural Resources | | X | N/A | N/A |
| Facility Design | X | | N/A | N/A |
| Geological/Paleontological Resources | | X | N/A | N/A |
| Hazardous Materials Management | X | | N/A | N/A |
| Land Use | X | | N/A | N/A |
| Noise and Vibration | X | | N/A | N/A |
| Socioeconomics | X | | N/A | N/A |
| Soil and Water Resources | | X | N/A | N/A |
| Traffic and Transportation | | X | N/A | N/A |
| Transmission Line Safety and Nuisance | X | | N/A | N/A |
| Transmission System Engineering | X | | N/A | N/A |
| Visual Resources | X | | N/A | N/A |
| Waste Management | | X | N/A | N/A |
| Worker Safety and Fire Protection | X | | N/A | N/A |

* There is no possibility that the proposed modifications would have a significant effect on the environment, and the modifications would not result in a change in or deletion of a condition adopted by the Energy Commission in the Final Decision, or make changes that would cause project noncompliance with any applicable laws, ordinances, regulations, or standards (20 Cal. Code Regs., § 1769 (a)(2)).

Energy Commission technical staff reviewed the petition for potential environmental effects and consistency with applicable LORS. Staff has determined that the technical or environmental areas of Facility Design, Hazardous Materials Management, Land Use, Noise and Vibration, Socioeconomics, Transmission Line Safety and Nuisance, and Transmission System Engineering, Visual Resources, and Worker Safety and Fire Protection, are not affected by the proposed changes.

For the technical or environmental areas of Air Quality, Biological Resources, Cultural Resources, Geological and Paleontological Resources, Soil and Water Resources, Traffic and Transportation, and Waste Management, staff has determined the modified project would continue to comply with applicable LORS and no changes are needed to any conditions of certification to ensure impacts would be less than significant. Staff notes the following for these technical or environmental areas:

AIR QUALITY

Impacts to air quality are expected to continue to be less than significant with the implementation of the conditions of certification. The request would include the excavation of a 1-foot wide by 2.5-foot deep trench extending approximately 520 feet.

The installation of the below grade conduit would be considered short-term construction and is expected to last three weeks: one week of trenching, one week for conduit installation, and one week to backfill the trench. The ACECP proposed the use of Tier 4 equipment for excavation and backfill. Any diesel equipment used would still be required to meet the State of California diesel requirements. As applicable, the diesel equipment used would need to be registered through the Statewide Portable Equipment Registration Program (PERP) or Diesel Off-road On-line Reporting System (DOORS) and associated equipment permits would be retained onsite. Ongoing operation of the conduit would not require any additional equipment. All chemicals associated with the proposal would be compliant with existing rules and regulations. Operation, maintenance and installation of the communication line would not require stationary source air permits through the local air district. All activity associated with the proposed modification is expected to comply with all applicable LORS. The conditions of certification in the original Decision and any and all amendments thereafter ensure that the facility would remain in compliance with all applicable LORS and mitigate any potential impacts to air quality. Therefore, there are no expected significant air quality impacts from the proposed amendment to any population within the project's six-mile radius, including any environmental justice population. In addition, there are no proposed changes to the Air Quality Conditions of Certification. Therefore, staff is proposing to process the request as a Staff Approved Project Modification.

BIOLOGICAL RESOURCES

The proposed amendment to install conduit below grade would entail excavating a 1-foot wide by 2.5-foot deep trench for about 520 feet. An approximately 140-foot portion of the trench would be located in a parking lot, and the remaining 380 feet would be located in a previously disturbed area. There is no native habitat remaining on the site, and therefore there would be no impacts associated with loss of habitat. Conditions of Certification **BIO-2** (Designated Biologist Duties), **BIO-4** (Designated Biologist and Biological Monitor Authority), **BIO-5** (Worker Environmental Awareness Program), and **BIO-8** (Mitigation Management to Avoid Harassment or Harm) in the Final Decision would ensure any impacts to wildlife that may enter the work area would be less than significant and ensure the project continues to comply with LORS.

CULTURAL RESOURCES

The proposed amendment to install conduit below grade would entail excavating a 1 foot wide by 2.5 foot deep trench for about 520 feet. The entirety of the conduit is about 2,100-feet long but all but 520 feet of it would be in existing conduit right-of-way for the adjacent Poseidon desalination facility. The conduit would be laid from an existing vault in the Encina Power Station parking lot to another existing vault on the project site. An approximately 140 foot portion of the 520-feet of new linear ground disturbance would be located in a parking lot with disturbed soils/fill, and the remaining 380 feet would be located in engineered fill. There are no known cultural resources in the area proposed for conduit installation, and Conditions of Certification **CUL-5** (Worker Environmental Awareness Program) and **CUL-7** (Unanticipated Discovery Protocols) would reduce impacts to any buried, as-yet unknown cultural resources to a less than significant level and ensure the project continues to comply with LORS. Staff's environmental justice

analysis concludes that an environmental justice community is present within a six-mile radius of the project based on minority and low-income, but because there is no known subsistence or traditional gathering area used by Native Americans in this radius, there is not an environmental justice population for the purposes of cultural resources.

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Construction of the below grade conduit would involve ground disturbance. All work would occur within the EPS property boundary. The proposed maximum depth of disturbance would be 2.5-feet. The entire conduit would be constructed in a previously disturbed material (soil/fill); therefore there would be no impact to geologic or paleontological resources. No significant, site specific geologic hazards were identified prior to the start of ACECP construction. Therefore, based on soil data developed during construction, including the results of the soil engineering report prepared for condition **GEO-1**, should potential geologic hazards be identified during construction, compliance with existing Facility Design Conditions of Certification **GEN-1**, **GEN-5**, and **CIVIL-1**, would mitigate these impacts to a less than significant level. Staff concludes the proposed modifications would have no impact on geologic resources, paleontological resources, and no significant impacts to public health and safety due to geologic hazards.

SOIL AND WATER RESOURCES

Based on the information provided by the project owner and previous investigation by the staff, staff concludes the proposed modifications would have no impact on soils and water resources. The proposed modification would not require any change to the conditions of certification related to soils and water resources adopted by the Energy Commission in its Final Commission Decision in June 2012 and as amended in July 2015. Staff also concludes that compliance with current soils and water conditions of certification, and general LORS and conditions specified by the Energy Commission in its Decision, and the amendment thereof would ensure mitigation of any possible soils and water resources effects of the site.

TRAFFIC AND TRANSPORTATION

The construction workforce would not increase from the current number of construction workers currently onsite. Therefore, construction-related traffic would not increase during the expected three week construction period for the below-grade conduit. No traffic and transportation impacts would occur with the proposed modification.

WASTE MANAGEMENT

Based on the information provided by the project owner and previous investigation by the staff, staff concludes the proposed modifications would not result in additional significant environmental impacts in terms of waste management in comparison with the original analysis for the approved project, provided the owner complies with Conditions of Certification **WASTE-1**, **WASTE-3** through **WASTE-8**, **WASTE-11**, and **WASTE-12**. The proposed construction would not require any change to the conditions of certification related to waste management adopted by the Energy Commission in their

Final Commission Decision in June 2012 and as amended in July 2015. Staff also concludes that compliance with current waste management LORS and conditions specified by the Energy Commission in their Decision, as amended, would ensure mitigation of the effects of waste management at the site.

ENVIRONMENTAL JUSTICE (EJ)

Environmental Justice Figure 1 shows 2010 census blocks in the six-mile radius of Carlsbad Energy Center Project with a minority population greater than or equal to 50 percent. The population in these census blocks represents an EJ population based on race and ethnicity as defined in the United States Environmental Protection Agency’s *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*.

Based on the U.S. Census American Community Survey data in **Environmental Justice Table 1** and presented in **Environmental Justice Figure 2**, staff concluded that when compared with the below-poverty-level population in San Diego County, the city of Vista has a higher percent of people living below the poverty level, and thus is considered an EJ population based on low income as defined in *Guidance on Considering Environmental Justice During the Development of Regulatory Actions*.

**Environmental Justice Table 1
 Poverty Data within the Project Area**

| GEOGRAPHIES IN A SIX-MILE RADIUS | Total Population* | Population Below Poverty Level | Percent Below Poverty Level (%) |
|---|---------------------|--------------------------------|---------------------------------|
| | Estimate | Estimate | Estimate |
| Carlsbad | 110,256 ±223 | 10,068 ±1,325 | 9.1 ±1.2 |
| Encinitas | 61,333 ±149 | 4,978 ±757 | 8.1 1.2 |
| Oceanside | 172,378 ±293 | 24,345 ±2,430 | 14.1 ±1.4 |
| Vista | 95,739 ±358 | 17,062 ±1,480 | 17.8 ±1.5 |
| REFERENCE GEOGRAPHY | | | |
| San Diego County | 3,143,203 ±2,532 | 454,876 ±9,006 | 14.5 ±0.3 |
| Notes: Population for whom poverty is determined. Staff’s analysis of the estimates returned coefficient of variation values less than 15, indicating the data is reliable. Sources: United States Census Bureau, S1701 POVERTY STATUS IN THE PAST 12 MONTHS- 2011 – 2015 American Community Survey 5-Year Estimates, http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml . | | | |

Staff has determined that the impacts of the proposed modifications would be less than significant or less than significant with implementation of existing conditions of certification. Therefore, impacts would be less than significant for any population in the project’s six-mile radius, including the EJ population represented in **Environmental Justice Figure 1, Figure 2, and Table 1**.

Section 1769(a)(2) of Title 20, California Code of Regulations, states, “(w)here staff determines that there is no possibility that the modifications may have a significant effect on the environment, and if the modifications will not result in a change or deletion of a condition adopted by the commission in the final decision or make changes that would cause the project not to comply with any applicable laws, ordinances, regulations, or standards, no commission approval is required....”

Pursuant to that section, Energy Commission staff has determined for this petition that approval by the full Commission is not required and the proposed modifications meet the criteria for approval at the staff level because:

- There is no possibility that the modifications will have a significant effect on the environment;
- Existing conditions of certification are sufficient to cover the proposed modifications without changes to, or deletions of, any conditions of certification adopted by the commission in the final decisions; and
- The project as modified will maintain full compliance with applicable LORS.

This Notice of Determination has been mailed to the Energy Commission’s facility mail list of interested parties and property owners adjacent to the facility site. It has also been e-mailed to the facility listserv. The listserv is an automated Energy Commission e-mail system by which information about this facility is e-mailed to parties who have subscribed. To subscribe, go to the Energy Commission’s webpage for this facility, cited above, scroll down the right side of the project’s webpage to the box labeled “Subscribe,” and provide the requested contact information.

Any person may file an objection to staff’s determination within 14 days of the date of this Notice on the grounds that the project modification does not meet the criteria set forth in section 1769(a)(2) of Title 20, California Code of Regulations. Absent any relevant objections, the amendment petition will be approved 14 days after this Notice is docketed. To use the Energy Commission’s electronic commenting feature to object to staff’s determination, go to the Energy Commission’s webpage for this facility, cited above, click on the “Submit e-Comment” link, and follow the instructions in the on-line form. Be sure to include the facility name in your comments. Once submitted, the Energy Commission Dockets Unit reviews and approves your comments, and you will receive an e-mail with a link to them.

Written comments may also be mailed or hand-delivered to:

California Energy Commission
Dockets Unit, MS-4
Docket No. 07-AFC-6C
1516 Ninth Street
Sacramento, CA 95814-5512

All comments and materials filed with and approved by the Dockets Unit will be added to the facility Docket Log and be publicly accessible on the Energy Commission's webpage for the facility.

If you have questions about this Notice, please contact Dale Rundquist, Compliance Project Manager, at (916) 651-2072, or by fax to (916) 654-3882, or via e-mail at dale.rundquist@energy.ca.gov.

For information on participating in the Energy Commission's review of the petition, call Alana Mathews, Public Adviser, at (916) 654-4489 or (800) 822-6228 (toll-free in California) or send your e-mail to publicadviser@energy.ca.gov.

News media inquiries should be directed to the Energy Commission Media Office at (916) 654-4989, or by e-mail to mediaoffice@energy.ca.gov.

Date: 8/19/17 Christine Root
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ENVIRONMENTAL JUSTICE - FIGURE 1

Carlsbad Energy Center - Census 2010 Minority Population by Census Block



ENVIRONMENTAL JUSTICE - FIGURE 2
Carlsbad Energy Center - Environmental Justice Population Based on Low Income

