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August 18, 2008

Mike Monasmith
Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento CA 95814

DOCKET	
07-AFC-6	
DATE	AUG 18 2008
RECD.	AUG 19 2008

Re: Coastal Commission Review of Application for Certification of the Proposed Carlsbad Energy Center Project (07-AFC-6)

Dear Mr. Monasmith:

This is a follow up to my letter of August 8, 2008 to you regarding the necessity of the Coastal Commission's participation in these proceedings and the necessity of receiving its report prior to your preparation of the preliminary staff analysis. I have now received a copy of Executive Director Douglas's reaffirmation of his inability to participate or prepare a written report due to the dire funding and staffing conditions at the Coastal Commission (see enclosed letter of August 14, 2008).

It seems to me this leaves the Commission, the Commission staff, the applicant and the City of Carlsbad in a difficult situation. The Commission staff needs the report to make a recommendation to its Commission, the applicant can't get approval and the City may be required to enforce these legal requirements. I don't believe that Coastal Commission's Executive Director is quarreling with the notion that participation before the Energy Commission is required by statute or even that he would participate in those proceedings and prepare the required report but for the lack of funding which represents an unfunded mandate. On the other hand, we believe it is necessary before the Commission can prepare its preliminary staff assessment or issue a license to operate.

If, as I believe, the Coastal Commission's participation and report is required by statute, and I have received no authority to the contrary, will your staff recommend a stay on the proceedings until receipt of the required report or suggest some other alternative that meets the requirements of law?

I look forward to hearing from you or your attorneys on this matter.

Very truly yours,

RONALD R. BALL
City Attorney

rn/enclosure

c: Proof of Service List (attached)
Peter Douglas, California Coastal Commission Executive Director



CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
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August 14, 2008

Ronald R. Ball
City Attorney
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008-1949

RE: Coastal Commission Review of Application for Certification of the
Proposed Carlsbad Energy Center Project in Carlsbad

Dear Mr. Ball:

We are in receipt of your July 28, 2008 letter received on July 30, 2008 in which you assert that the Coastal Commission must, as a matter of law, review the Application for Certification of the Carlsbad Energy Project notwithstanding the Commission's dire funding and staffing condition. As local governments are painfully aware, unfunded mandates are frustrating and often result in mandates not being carried out. Similarly, while we appreciate your position and would ourselves want to undertake this review, knowing what should be done does not translate into the necessary funding or staffing required to be able to do it. Because we have no staff to do the work you ask us to do, we are unfortunately not in a position to undertake it.

Sincerely,

A handwritten signature in cursive script that reads "Peter Douglas".

PETER DOUGLAS
Executive Director

cc: California Coastal Commissioners
Coastal Commission Program Directors
Joe Garuba, Carlsbad Municipal Project Manager



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

APPLICATION FOR CERTIFICATION
FOR THE **CARLSBAD ENERGY CENTER**
PROJECT

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 7/31/2008)

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-6
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

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DECLARATION OF SERVICE

I, Robin Nuschy, declare that on 8.18.08, I deposited copies of the attached letter in the United States mail at Carlsbad P.O. with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

