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August 21, 2006

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Mr. Bill Pfanner
California Energy Commission
Systems Assessment and
Facility Siting Division
1516 9th Street, MS 15
Sacramento, CA 95814-5512

Subject: LSP South Bay, LLC – South Bay Replacement Project AFC (06-AFC-3): Additional Information Regarding Waste Management Data Adequacy

Dear Mr. Pfanner:

On behalf of LSP South Bay, LLC, please find enclosed a copy of a memorandum from LS Power Generation, LLC, dated August 21, 2006, that provides the additional information requested by CEC staff to address the staff's Data Adequacy Recommendations for Waste Management (dated July 28, 2006). By a previous letter dated August 1, 2006, an updated Phase 1 Environmental Site Assessment completed within the past 12 months was provided to CEC staff to address the other Waste Management Data Adequacy requirements.

The enclosed memorandum provides the following information, as requested by CEC staff during a conference call on August 9, 2006:

- Parties involved in site investigation and remediation activities for the 33-acre Former LNG Parcel, and for the existing South Bay Power Plant site.
- Listing and description of agreements between responsible parties for investigation and remediation activities for the 33-acre Former LNG Parcel, and for the existing South Bay Power Plant site.
- Description of prior and current investigation and remediation activities for the 33-acre Former LNG Parcel, and for the existing South Bay Power Plant site.
- Description and schedule for planned site investigation and remediation activities for the 33-acre Former LNG Parcel, and for the existing South Bay Power Plant site.

As noted in the attached memorandum, also enclosed is a copy of the two following reports for the existing South Bay Power Plant site prepared by SDG&E and submitted to the California Department of Toxic Substances Control (DTSC):

- *"Response to Department of Toxic Substances Control Comments, South Bay Power Plant Facility, Chula Vista, California."* Haley & Aldrich prepared for SDG&E, 2004.
- *"Facility Investigation Work Plan, South Bay Power Plant Facility, Chula Vista, California."* Haley & Aldrich prepared for SDG&E, 2005.

As discussed, at this time we are providing one hard-copy of each of the two above reports for review by CEC staff to ensure they meet staff's data adequacy requirements. Upon complete of its review, if CEC staff confirms the enclosed reports meet the data adequacy

requirement, we will formally docket the appropriate number of hard copies and electronic copies of these reports.

LSP South Bay, LLC appreciates the continued opportunity to work with CEC staff on this important project.

Sincerely,

CH2M HILL

for Robert C. Mason
Project Director

Enclosures: LSP South Bay, LLC Memorandum – August 21, 2006
Haley & Aldrich reports: 2004 and 2005

cc: Kevin Johnson, LSP South Bay, LLC
Andrew Trump

Memo

To: Ron Fischer, Chris Ellison

From: James White, Western Region EH&S Manager, LS Power Generation LLC

CC: Andy Trump, Robert Mason

Date: August 21, 2006

Re: Response to CEC Data Adequacy Worksheet for Waste Management

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This memo provides additional information on the two Waste Management Data Adequacy items identified by the CEC on the CEC's "Data Adequacy Worksheet." My responses to the Data Adequacy Worksheet differ depending on whether they are being made in reference to the 33-acre "former LNG facility" parcel or the existing South Bay Power Plant site. This is because there are unique existing conditions and contractual obligations for the separate parcels. Each parcel also has unique circumstances that will dictate schedules for further site investigations, decommissioning and demolition activities. Therefore, for purposes of clarity, I've taken care to distinguish between the former LNG site and the remainder of the property when preparing the responses.

It should also be noted that this memo references LSP South Bay, LLC and Duke Energy South Bay LLC. As the result of an upstream sale of equity interest, Duke Energy South Bay LLC changed its name to LSP South Bay, LLC on May 4, 2006.

CEC Data Adequacy Item #1 (as identified on CEC worksheet):

An updated Phase I Environmental Site Assessment is required (Siting Regulation Appendix B (g)(12)(A))

LSP South Bay Response:

As noted on the CEC worksheet, a 1998 Phase I Environmental Site Assessment (ESA) was submitted with the AFC (Appendix 8.13A, Environmental Due Diligence). A copy of more recent Phase I ESA for the South Bay Power Plant and the former LNG Facility, dated October 31, 2005, was submitted to the CEC's Facility Siting Division on August 1, 2006 on behalf of LSP South Bay, LLC. This more recent ESA did not result in discovery of any "recognized environmental concerns" but does include a useful summary of additional investigations and related activities that have occurred since the original ESAs were completed. The updated ESA captures the entire project footprint—specifically both the LNG site and the existing power plant site— therefore this report will satisfy the CEC's requirement for an updated, comprehensive Phase I ESA for both parcels.

In summary, the CEC should already have received the updated Phase I ESA that will satisfy this request for both the existing power plant site and the former LNG parcel.

CEC Data Adequacy Item #2 (as identified on CEC worksheet)

The CEC Data Adequacy Worksheet states that environmental contamination has been identified as present at the site but that "no measures have been proposed to mitigate the

contamination. A proposal to mitigate soil and groundwater contamination…is needed." (Siting Regulation Appendix B (g)(1))

LSP South Bay Response:

This comment is specific to the South Bay Power Plant site and not the former LNG site because there has not been any environmental contamination discovered at the LNG site. Nevertheless, there is substantial information on the environmental conditions for both sites resulting from a number of past and ongoing investigation and remediation activities. For purposes of clarity, I have distilled the specific responses—separately, for each site—into the following components:

a. A listing of the parties involved in site investigation and remediation activities.
b. A listing and description of the key agreements regarding site investigation and remediation activities.
c. A description of prior and current investigation and remediation activities.
d. A description and schedule for planned site investigation and remediation activities

I have also included as an attachment to this memo a summary table that provides an overview of the issues related to site environmental investigation and remediation for the two parcels.

Responses Applicable to the 33-acre Former LNG Facility Parcel

a. Parties involved in site investigation and remediation activities

Investigation and remediation activities on the former LNG parcel involve only LSP South Bay, LLC and the San Diego Unified Port District. The Port's point of contact on these matters is Bill Hays, Project Manager [(619) 686-6584] with the Port's Environmental Services Department.

b. Listing and description of the agreements that between responsible parties for investigation and remediation activities

The Environmental Remediation Agreement (ERA) contains provisions making LSP South Bay, LLC responsible for the performance of certain environmental investigation and, if necessary, remediation activities on the LNG parcel, with which LSP South Bay, LLC believes it has complied to date. The ERA assigns and further refines some of the site environmental responsibilities that the Port assumed in the Asset Sale Agreement (ASA) between the Port and San Diego Gas and Electric.

c. Description of prior and current investigation and remediation activities

As noted previously, both Phase I ESAs have included the LNG site in their scope. Neither assessment resulted in the discovery of any recognized environmental conditions for the parcel.

In compliance with the ERA, Duke Energy South Bay LLC (the power plant operator and lessee at the time) performed Phase II ESA for the LNG site in 2001. That assessment included soil and groundwater sampling at multiple locations and an electromagnetic survey across the site. No significant environmental impacts were identified by this investigation and a report documenting the results of this investigation was submitted to the Port of San Diego in 2001. A copy of this report ("*Environmental Assessment Report for the Port of San Diego, Former Liquefied Natural Gas Facility*") was also submitted to the CEC as part of the AFC filing (Appendix 8.13A, Environmental Due Diligence).

d. Description and schedule for planned site investigation and remediation activities

Neither the two Phase I ESAs nor the 2001 Phase II ESA for the LNG site has resulted in the identification of any significant environmental conditions or impacts at the site. Consequently, no conditions have been identified that would trigger remediation activities and the associated oversight of state or local agencies. As described in the AFC, there are tank foundations and containment berms that remain on the LNG site and that will need to be removed as part of the first construction phase of the SBRP project. When those structures are removed the underlying soil will be evaluated for the presence of any previously undisclosed environmental conditions. According to the schedule included in the AFC, that work is expected to start in early 2008 and last approximately 75 days.

It's worth noting that should these future investigations result in the discovery of contaminated soil requiring remediation, that work would be overseen by the San Diego County Department of Environmental Health.

Summary for the 33-acre former LNG facility parcel:

- A copy of the 2001 Phase II ESA for the LNG parcel was provided to the CEC as part of the AFC (Appendix 8.13A, Environmental Due Diligence).
- The process and schedule for any additional investigation work on the LNG parcel is described in the AFC and the existing agreements between LSP South Bay, LLC and the Port will govern responsibility related to any previously undiscovered environmental conditions.
- Understanding the distinction of the obligations, activities and schedules for the LNG parcel as opposed to those of the main power plant parcel should satisfy the CEC's concerns relative to the LNG parcel.

Responses Applicable to the Remainder of the SBPP Site (the existing power plant site)

a. Parties involved in site investigation and remediation activities

Site environmental investigations, clean-up, and demolition have been occurring since the sale of the power plant to the Port, pursuant to the various agreements created to guide those activities. Investigation and remediation activities on the existing SBPP site involve LSP South Bay LLC, the San Diego Unified Port District, and San Diego Gas and Electric. The Department of Toxic Substances Control (DTSC) is also involved and has assumed the role of lead agency overseeing all site investigation and remediation activities for the existing SBPP site.

The key contact person for the Port is Bill Hays [(619) 686-6584]. The contact person for DTSC is Violeta Mislang [(714) 484-5387] who works in DTSC's Cypress field office. For SDG&E, the project manager is Barbara Montgomery [(858) 637-3719] with SDG&E's Environmental Services group.

b. Listing and description of the agreements that between responsible parties for investigation and remediation activities

Allocation of environmental liabilities at the existing SBPP site is defined in the ASA between the Port and SDG&E. The Port's responsibilities are further defined by its Lease Agreement with LSP South Bay, LLC and the ERA between the Port and LS Power. Another document, the Cooperation Agreement, describes cooperation and contact guarantee provisions between LSP South Bay, LLC and the Port.

c. Description of prior and current investigation and remediation activities

Since the sale of the SBPP to the Port, it is LSP South Bay's opinion and view that all parties have undertaken numerous actions in fulfillment of their respective contractual obligations. The results and status of those activities are best summarized in a report prepared by Haley & Aldrich in 2004 entitled *"Response to Department of Toxic Substances Control Comments, South Bay Power Plant Facility, Chula Vista, California"*. SDG&E submitted this report to the DTSC in 2004 in response to comments and questions by DTSC related to investigation and remediation activities at the SBPP site. Although prepared on behalf of SDG&E, the report contains responses from the Port and Duke Energy South Bay LLC for DTSC inquiries related to their respective activities or responsibilities. This single report should provide the information needed by CEC to understand the numerous investigation and remediation activities and results that have occurred at the site since the sale.

d. Description and schedule for planned site investigation and remediation activities

The various agreements (ASA, Lease, and ERA) governing environmental responsibilities for the SBPP site were crafted with the understanding and expectation that environmental investigation and remediation at the plant site would be a multi-phase and multi-year project. The power plant will continue to operate for at least the next several years and there are areas of the site that cannot be assessed until the power plant is decommissioned and demolished. Consequently, there is no comprehensive work plan that addresses all remediation issues for the SBPP site.

In the near term, SDG&E is moving forward to address certain areas of concern that were identified in the 1998 Phase II ESA and for which SDG&E retains responsibility under the ASA. Toward that end, SDG&E has prepared and submitted to DTSC a Facility Investigation Work Plan (Haley & Aldrich, June 2005) for the SBPP site. The work plan includes a schedule that is triggered by DTSC approval, which is still pending. Though mostly focused on SDG&E's immediate obligations, this report should clarify for CEC how the previously identified soil contamination is being addressed at the SBPP.

Summary:

- Site environmental investigations, clean-up, and demolition have been occurring since the sale of the power plant to the Port pursuant to the various agreements created to guide those activities.
- The Department of Toxic Substances Control has taken the lead role in overseeing environmental investigation and remediation activities at the SBPP site.
- The CEC was provided with a copy of the 1998 Phase II ESA for the South Bay Power Plant site as part of the AFC submittal (Appendix 8.13A, Environmental Due Diligence).
- A copy of more recent Phase I ESA for the South Bay Power Plant and the former LNG Facility, dated October 31, 2005, was submitted to the CEC's Facility Siting Division on August 1, 2006 on behalf of LSP South Bay, LLC.
- The CEC is being provided with a copy of the 2004 Haley & Aldrich report "Response to Department of Toxic Substance Control Comments..." that was submitted to DTSC.
- The CEC is being provided with a copy of the 2005 Haley & Aldrich Facility Investigation Work Plan that was submitted to DTSC.

Attachment 1: Summary Table of Information Related to Site Environmental Investigation and Remediation

	Parcel	
	33-acre "former LNG facility" site	**Existing South Bay Power Plant Site**
Status	Location of the future SBRP; no activities or uses occurring presently.	Site has active uses including power block of the existing power plant, the south tank farm, and switchyard. Site has on-going removal and remediation activities in the "north tank farm" and other areas of the site as outlined in the Facility Investigation Work Plan prepared by Haley & Aldrich
Does (or will) LS Power South Bay LLC lease property?	LSP South Bay, LLC does not currently lease this property. It is anticipated that, in the future, LSP South Bay, LLC will lease this property.	LSP South Bay, LLC leases a portion of this site. LS Power South Bay LLC does not lease switchyard area that is owned and operated by SDG&E.
Responsibility for decommissioning and demolishing structures?	San Diego Unified Port District	With certain exceptions, LSP South Bay, LLC has responsibility under the Lease Agreement to remove structures (other than foundations, structures and other materials located at a depth of more than four feet below surface level).
Known contamination?	No	Yes
Basis for understanding of environmental site conditions	1998 Phase I ESA 2001 Phase II ESA 2005 Phase I ESA	1998 Phase I ESA 1998 Phase II ESA 2005 Phase I ESA Additional targeted investigations summarized in 2004 Haley and Aldrich response to DTSC
Lead agency for any site investigation and remediation activities	Not applicable	Department of Toxic Substances Control
Obligations for remediation, if required	The ERA contains provisions making LSP South Bay, LLC responsible for the performance of certain environmental investigation and, if necessary, remediation activities on the LNG parcel.	LSP South Bay, LLC, SDG&E and the Port share responsibilities pursuant to the various agreements (ASA, ERA, and Lease Agreement)