CALIFORNIA ENERGY COMMISSION
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January 9, 2007

DOCKET
06-AFC-3
DATE JAN 9 2007
RECD JAN 10 2007

John Helmer
Manager, Land Use Planning
P.O. Box 120488
San Diego, CA 92112-0488

RE: Jurisdiction over Demolition of Existing South Bay Power Plant

Dear Mr. Helmer:

Thank you for participating in the conference call with Energy Commission staff on November 21, 2006, to discuss jurisdiction and environmental review of the demolition of the existing South Bay power plant. In that discussion, I explained the Energy Commission does not have permitting jurisdiction over the demolition of the existing South Bay power plant. Prior to our conference call, I had confirmed this with the Energy Commission's Chief Counsel. You suggested I send you a letter explaining the Commission's lack of jurisdiction and indicated the letter would help clarify statements about jurisdiction in the San Diego Unified Port District's Draft Environmental Impact Report for the Chula Vista Bayfront Master Plan.

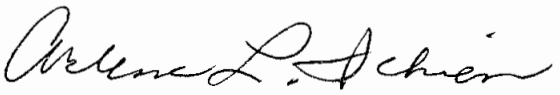
Essentially, the Commission's lack of permitting authority rests on whether the existing South Bay power plant falls within certain definitions that define the Energy Commission's permitting authority. The existing power plant and its location happen to fall outside the definitions of "site" and "related facility," as those terms are defined in the Commission's enabling statute and regulations. (See Public Resources Code sections 25110, 25119, and 25500 and Title 20 California Code of Regulations, section 1702(n).) The existing power plant was not licensed by the Energy Commission. Its location is not a "site" on which a thermal power plant regulated by the Energy Commission has been constructed or is proposed for construction. Moreover, the existing plant is not a "related facility" in that it is not dedicated and essential to the operation of the replacement power plant, over which the Commission does have permitting authority. Indeed, rather than being essential to the operation of the replacement plant, the existing plant is slated for demolition under agreements between its owner, the Port Authority, and the applicant seeking an Energy Commission license for the replacement.

Because the demolition is part of a master plan to build a replacement plant at another location, however, the Energy Commission staff plans to assess the environmental impacts of the demolition in its environmental assessment of the proposed replacement plant. Actually, all foreseeable activities related to the proposed replacement power plant will be covered in the Commission staff's environmental assessment. As a result, the final staff assessment should be suitable for use in complying with CEQA by the Port Authority and the City of Chula Vista, agencies that we understand do have permitting authority over the demolition of the existing South Bay power plant.

The teleconference was very informative as to the role the City of Chula Vista is expected to play in the issuance of a demolition permit. Even though the Port Authority owns the existing South Bay power plant and its site, we understand the Port Authority expects to rely on the City of Chula Vista for important aspects of reviewing and permitting the demolition.

Since our call, Energy Commission staff has held a similar call with staff from the City of Chula Vista. We look forward to continuing the dialogue with both the City and the Port Authority to coordinate our respective responsibilities in the license review of the replacement plant, as well as the demolition of the existing plant and all other related and foreseeable activities.

Sincerely,



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AI/jcm

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SOUTH BAY REPLACEMENT PROJECT
APPLICATION FOR CERTIFICATION
DOCKET NO. 06-AFC-3

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I declare that I transmitted the foregoing document via e-mail, or as indicated by first class postal mail, to the above named on the date indicated thereby. I declare under penalty of perjury that the foregoing is true and correct.

<Geoffrey W. Carter>

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