

From: Mike Monasmith
To: Docket Optical System
CC: Dick Ratliff; Eric Knight
Date: 1/5/2009 1:17 PM
Subject: Fwd: RE: Carlsbad Energy Center
Attachments: TN 47485 08-08-08 Letter Regarding City of Carlsbads Inabilit.pdf

DOCKET	
07-AFC-6	
DATE	<u>JAN 05 2009</u>
RECD.	<u>JAN 05 2009</u>

Hello,

Please docket the following from Mr. Tom Luster with the California Coastal Commission re: the Carlsbad Energy Center Project, 07-AFC-6.

With this docket item, please include the attachment (City of Carlsbad / Coastal Commission correspondence) as well.

Thanks!
Mike

FROM:
>>> "Tom Luster" <tluster@coastal.ca.gov> 1/5/2009 9:05 AM >>>

Hi Mike,

I recently saw the opinion piece below and thought you'd be interested. Also, please note the piece includes an incorrect statement about the proposed desalination not being allowed under the Coastal Act -- that is not the case. The Coastal Act does not have a blanket prohibition on the type of desalination proposed -- as for any proposal, we would evaluate the project to determine whether it met applicable Coastal Act requirements.

Please let me know if you have questions.

Tom Luster

Tom Luster
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA 94105
(415) 904-5248

From North County Times, December 11, 2008:
FORUM: Power plants don't belong on our coast

By BUD LEWIS -- Carlsbad mayor
More than 50 years have passed since the decision was made to build a power plant on Carlsbad's scenic coast. The California Energy Commission is considering a proposal for a new coastal power plant in Carlsbad that would have the same long-term consequences for our community.

One year ago, the California Energy Commission held a kickoff meeting for a proposal by NRG to build a second power plant on its coastal property just north of Cannon Road, next to the Agua Hedionda Lagoon. This new plant would replace some of the power-generating functions of the existing power plant, but the old plant would remain on the property. A common misconception is that the proposed plant would

replace the existing one. Removing the old plant is not part of the NRG proposal.

The city of Carlsbad recognizes our region's need for a reliable power supply. However, technology improvements in the power industry mean that power plants no longer need to be located along the coast because they do not use ocean water for cooling. New power plants are air-cooled.

Aside from the coastal location not being appropriate for a large industrial operation like a power plant, the site has other problems. The new power plant would significantly affect views, especially since the upcoming Interstate 5 widening would remove the berm and trees now screening west-facing views of the property.

Recent changes to the power plant proposal increased the height of the smoke stacks to nearly 14 stories tall. Some of the buildings are nearly 10 stories tall. NRG is also proposing to move the switchyard, 100-foot-tall poles connected by high-tension electrical wires, to a location in plain view. This creates a level of visual blight unprecedented in our region.

Another problem with the NRG proposal is the availability of water. The city cannot provide the requested amount of reclaimed water for the new power plant because all of the city's current supply of reclaimed water is already being used during summer months.

In response, NRG has proposed to build its own desalination plant. Unlike the Poseidon desalination plant, which will provide drinking water, the proposed desalination plant would produce water for industrial uses. This type of desalination plant is not allowed under the Coastal Act and defeats the purpose of stopping the use of ocean water for power plant operations.

To show its commitment to being a good regional partner, the city of Carlsbad identified alternate sites in industrial parts of the city where the plant could be built, but NRG has so far rejected these locations.

Unfortunately, the city of Carlsbad has virtually no say in this decision. Decisions about power plants are made by the California Energy Commission, a state agency in Sacramento.

That agency is about to release its Preliminary Staff Assessment of the proposed Carlsbad power plant. This will be followed by a public workshop in early January. The city of Carlsbad encourages the community to get involved in this issue. More information is available on the city's Web site under Carlsbad Connected, and at www.energy.ca.gov/sitingcases/carlsbad.

Claude A. "Bud" Lewis is the mayor of Carlsbad

J. Mike Monasmith
Siting Project Manager
California Energy Commission
phone: 916-654-4894
fax: 916-654-3882

www.energy.ca.gov/siting

PLEASE NOTE: This email and any attachments are confidential. If you receive this message in error or are not the intended recipient, you should not view, retain, distribute, disclose or use any of this information and immediately destroy the email and all attachments.



RONALD F. BALL
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JANE MOBALDI
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CITY OF CARLSBAD

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(760) 434-2891
FAX: (760) 434-8367

RONALD KEMP
DEPUTY CITY ATTORNEY

PAUL G. EDMONSON
DEPUTY CITY ATTORNEY

August 8, 2008

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

DOCKET	
07-AFC-6	
DATE	AUG 08 2008
RECD.	AUG 08 2008

Re: Carlsbad Energy Center Project (07-AFC-6)

Dear Mr. Monasmith:

I am writing you to bring to your attention a procedural matter that must be solved before the State Energy Resources Conservation and Development Commission ("Commission") can issue the preliminary report required by Public Resources Code section 25510. The reason for this is that the Coastal Commission has declined to prepare the written report on the suitability of the proposed site and related facilities within the Coastal Zone as required by Public Resources Code section 30413(d)(f). The Executive Director of the California Coastal Commission declined to participate or prepare the report as required by law because of budget difficulties (see letter of July 15, 2008 enclosed). As I pointed out in my letter of July 28, 2008 (copy enclosed), budgetary constraints are not sufficient reasons to avoid statutory obligations. I have had no response to that letter.

Until the Coastal Commission's report is issued and considered by the Commission, I do not believe the Summary and Hearing Order referred to in Public Resources Code section 25510 can proceed.

The need for this report is especially important in these proceedings since the site of the proposed project is within an area of the Coastal Zone that we believe is inconsistent with the Coastal Act and its local implementation by the City of Carlsbad. We believe both the Commission and the City of Carlsbad would benefit greatly from the issuance of this statutorily required report.

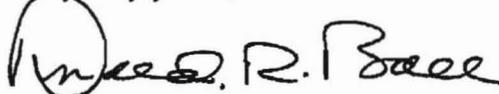
We understand that some of the Coastal Commission's participation is discretionary (see Public Resources Code section 30413(e)) but its participation in other parts of the proceedings are mandatory as well as the report or reports and comments on the project as it relates to the Coastal Zone or Coastal Zone resources.



Please let me know how you intend to obtain the Coastal Commission's participation and required reports prior to issuing the preliminary staff report (which I take to mean the Summary Hearing and Order).

I appreciate your cooperation and courtesy in this regard.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald R. Ball". The signature is written in a cursive style with a large initial "R" and "B".

RONALD R. BALL
City Attorney

rn/enclosure

c: Proof of Service List (attached)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



July 15, 2008

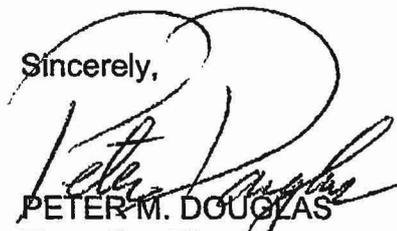
City of Carlsbad
Joe Garuba, Municipal Project Manager
1200 Carlsbad Village Drive
Carlsbad, CA 92008-1989

Re: Coastal Commission Review of Application for Certification of
the Carlsbad Energy Center Project

Dear Mr. Garuba:

I am in receipt of your July 8 letter requesting that we reconsider our prior decision not to participate in the review of the Application for Certification of the Carlsbad Energy Center Project pending before the California Energy Commission. While we appreciate the City's concerns and understand the coastal resource issues involved, due to severe budget reductions, staffing constraints and workload we have been forced to make priority choices in allocating staff workload. Unfortunately, we simply can no longer attend to many important coastal resource protection issues that an adequately funded state coastal management program should be able to address. Accordingly and regrettably, we are not in a position to respond favorably to your request. We appreciate your understanding our situation and dilemma.

Sincerely,



PETER M. DOUGLAS
Executive Director

cc: Alison Dettmer, Energy and Ocean Resources Manager



RONALD R. BALL
CITY ATTORNEY

JANE MOBALDI
ASSISTANT CITY ATTORNEY

CITY OF CARLSBAD

1200 CARLSBAD VILLAGE DRIVE
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(760) 434-2891
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RONALD KEMP
DEPUTY CITY ATTORNEY

PAUL G. EDMONSON
DEPUTY CITY ATTORNEY

July 28, 2008

Peter M. Douglas, Executive Director
California Coastal Commission
45 Fremont Street Suite 2000
San Francisco CA 94105-2219

Re: Coastal Commission Review of Application for Certification of the Proposed Carlsbad Energy Center Project, Carlsbad, California

Dear Mr. Douglas:

Your letter of July 15, 2008 addressed to Joe Garuba, Municipal Project Manager has been referred to me for response. According to your letter you cannot review the Application for Certification of the Carlsbad Energy Project because of budget reductions, staffing constraints and workload considerations. While we appreciate such difficulties and understand the economic uncertainties due to the State's budgetary constraints, such considerations do not allow a public entity to avoid its statutory obligations. In this case, Public Resources Code section 30143(d) is clear and compels participation in a report by a commission. That section states in relevant part:

"Whenever the State Energy Resources Conservation and Development Commission exercises its citing authority.... with respect to any thermal power plant to be located....within the Coastal Zone, the (coastal) commission shall participate in those proceedings and shall receive from the State Energy Resources Conservation and Development Commission any notice of intention to file an application for certification of a site and related facilities within the Coastal Zone. The commission shall analyze each notice of intention and shall prior to completion of the preliminary report required by section 25510, forward to the (Energy Commission) a written report on the suitability of the proposed site and related facilities specified in that notice....." (emphases added).

That section goes on to outline the contents of the report.

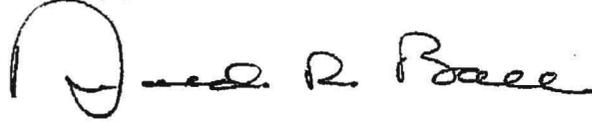
I respectfully request that you direct your staff to fulfill the statutory responsibilities or, alternatively, turn this letter over to your attorneys for advice on this matter.

Please give this matter your immediate attention because, as we understand it, the Energy Commission staff will be preparing its preliminary staff analysis soon and that will require consideration of your statutory report.



Should you have any questions regarding the above, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald R. Ball". The signature is written in a cursive style with a large, looped initial "R".

RONALD R. BALL
City Attorney

rn

c: Arlene Ichien, Esq.
Jonathan Blee, Esq.
Alan Thompson, Esq.
Joe Garuba, Municipal Projects 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 8.8.08, I deposited copies of the attached Letter in the United States mail at Carlsbad 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.

Robin Nuschy