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07-AFC-6

DATE May 01 2009

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May 1, 2009

BY HAND DELIVERY AND PER PROOF OF SERVICE

Mr. Paul Kramer, Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Re: Carlsbad Energy Center Project (07-AFC-6)
Applicant's Response to the City of Carlsbad's Petition to Compel
Response to Data Requests**

Dear Hearing Officer Kramer:

Applicant Carlsbad Energy Center LLC submits the enclosed opposition pursuant to your April 17, 2009 email, which directed all parties to submit responses to the City of Carlsbad's ("City") Petition to Compel Response to Data Requests ("Petition") on or before May 1, 2009.

As detailed in the enclosed opposition, Applicant remains opposed to the City's attempt to require Applicant to prepare additional visual renderings of CECP that would include five other speculative "projects." Applicant is opposed because the rendering of these projects is either impossible or would be highly misleading and of little value because the projects are not yet sufficiently described or of a nature that would require their rendering. One project, the switchyard, is already included in existing visual simulations provided to CEC staff. Attempting to render the other supposed projects in visual simulations would be of little use since the projects are not yet sufficiently concrete or advanced to allow for accurate rendering.

Applicant is particularly opposed to attempting to render any supposed I-5 expansion or realignment idea. The City's earlier distorted and disproportional rendering of one idea of how to widen or realign I-5 has already misled the community regarding what CECP will look like. The bottom line is that any future I-5 widening can, should, and will have to avoid CECP and any CEC jurisdictionally-required visual treatment and landscaping requirements. If the City remains determined to press its unfounded and misleading position that the California



Hearing Officer Kramer
May 1, 2009
Page 2

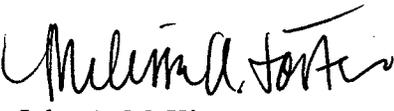
Department of Transportation can and would want to someday overrule CEC jurisdiction, then it should do so at its own cost and present its own evidence for the Committee to judge. Applicant has provided solid, accurate visual renderings of CECP, which have been accepted by CEC staff and which the community can and should trust when judging the visual effects of CECP.

While Applicant opposes the City's request, Applicant agrees that input from the public, interested agencies, and other parties is a necessary and invaluable component of the AFC process. The City has had the opportunity to submit comments on the PSA, has already issued numerous data requests to Applicant, and, as an intervenor, the City will have the opportunity to offer testimony or other evidence as well as examine witnesses at the CEC evidentiary hearings on CECP. The City has not been deprived, nor will it be deprived during the remainder of the CECP AFC proceeding, of any opportunity to provide information or its opinion to the Committee and Staff regarding CECP.

Applicant has made a good-faith effort to provide the CEC with all available known information regarding possible cumulative visual impacts from and involving CECP. To date, Applicant and Staff have presented as thorough an analysis of CECP's cumulative impacts as possible, given the information presently available. CEC Staff has not requested additional information from Applicant regarding the five "projects" that the City seeks Applicant to include in a visual rendering in Request Number 148. In fact, the information already provided by Applicant allows for the in-depth analysis of CECP and potential visual impacts associated with CECP, if any, allowing the CEC to fully comply with the Warren Alquist Act and the California Environmental Quality Act.

Applicant looks forward to the Committee's ruling on the City's Petition and is prepared to respond to any inquiries the Committee may have regarding this matter.

Respectfully submitted,


for John A. McKinsey

JAM:kjh

Enclosure

cc: See Attached Proof of Service

STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

**The Application for Certification for the
CARLSBAD ENERGY CENTER
PROJECT**

Docket No. 07-AFC-6

**CARLSBAD ENERGY CENTER LLC'S OPPOSITION TO
THE CITY OF CARLSBAD'S PETITION TO COMPEL RESPONSE TO
DATA REQUESTS**

May 1, 2009

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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

**The Application for Certification for the
CARLSBAD ENERGY CENTER
PROJECT**

Docket No. 07-AFC-6

**CARLSBAD ENERGY CENTER LLC'S OPPOSITION TO
THE CITY OF CARLSBAD'S PETITION TO COMPEL RESPONSE TO
DATA REQUESTS**

Pursuant to Hearing Officer Paul Kramer's April 17, 2009 Order, Applicant Carlsbad Energy Center LLC ("Applicant") herein explains its opposition to the City of Carlsbad's ("City") Petition to Compel Response to Data Requests ("Petition").¹ As detailed below, the City's request lacks merit because it relies on incorrect presumptions, seeks information that would create misleading results and/or perceptions about the Carlsbad Energy Center Project ("CECP"), serves no useful purpose, and otherwise frustrates the public interest. Of the five requested visual renderings, one has already been provided, three are not real, tangible, or specified projects, and one is inconsequential.

I. BACKGROUND

On or about March 23, 2009, Applicant received ten data requests from the City related to the CECP. Applicant timely objected to the City's requests via letter dated April 9, 2009 and incorporates such objections herein by reference. (*See* Exhibit A attached hereto.) Subsequently, on April 16, 2009, the City filed the Petition at issue herein seeking to compel Applicant to respond to Data Request Number 148 (the "Request");²

¹ This Opposition also constitutes Applicant's opposition to Intervenor Power of Vision's April 17, 2009 filing in Support of City of Carlsbad's Request for Information and Intervenor Center for Biological Diversity's Position in Support of The City of Carlsbad's Petition to Compel Data Requests (filed April 28, 2009).

² *See also* footnote 1, *supra*. Data Request Number 148 is one of the ten original requests.

Provide or prepare, if necessary, visual simulations of the CECP, including the proposed switchyard adjacent to the West Hotel, which incorporates the widening of I-5, the double tracking of the LOSSAN rail corridor, the Coastal Rail Trail and the Carlsbad/Vista Sewer Interceptor. Include safety features, such as barrier walls, related to I-5 and the Coastal Rail Trail.

(City Data Request Number 148 (Mar. 23, 2009); Petition at 1.)

II. ARGUMENT

Applicant objects to the Request and opposes the City's Petition on the grounds that the Request is untimely, lacks good cause, and seeks information that exceeds the scope of the CECP CEC Application for Certification ("AFC") proceeding. Additionally, responding to the Request would require Applicant to speculate about potential projects outside the scope of CECP and their potential effect on CECP. Moreover, any response to the Request likely would confuse parties and the community by requiring Applicant to create visual renderings for non-existent or unspecified projects that lack the specificity and certainty necessary to produce accurate renderings. For the reasons set forth herein, Applicant respectfully requests that the Committee deny the City's Petition in its entirety.

A. The City's Request Number 148 is Untimely

The California Energy Commission's ("CEC's") regulations require the submission of all requests for information no later than 180 days from the date the CEC determines an AFC is complete, unless the CEC committee conducting the AFC proceedings allows requests for information at a later time for good cause. (20 Cal. Code Reg. § 1716(e).) The CEC found that the CECP AFC was complete or "data adequate" on October 31, 2007. Therefore, all requests for information were required to be filed before May 2008, except for good cause. The Request is untimely by over eleven months and provides no basis for exception. The City intervened late and provides no reasonable justification for serving data requests on Applicant a mere six weeks prior to the date that CEC staff anticipates issuing the Final Staff Assessment ("FSA") for CECP.

B. The City Lacks "Good Cause" For Its Untimely Request

The City's delay in officially intervening in the CECP proceeding – some fifteen months

after the CECP AFC was complete – and the issuance of ten additional data requests almost three months after CEC Staff issued the Preliminary Staff Assessment (“PSA”) and approximately six weeks before release of the FSA– is not good cause for the City to issue data requests at this late stage in the CECP AFC process. The City erroneously contends that “a desire to evaluate the project as proposed, along with reasonably foreseeable future projects, constitutes good cause.” (Petition at 2 (emphasis added).) The City’s “desire” for an evaluation does not constitute “good cause.” In fact, no additional information regarding four of the five “projects” included in the Request exists now that did not exist prior to the date CEC staff published the PSA in December 2008, and prior to the close of the 180-day discovery period in May 2008. The City’s Petition is untimely, without merit, and should be denied.

C. Request Number 148 Requires Applicant to Speculate About the Status, Location, and Potential Impacts of the Other “Projects” In Relation to CECP

The City seeks to compel Applicant to provide visual renderings that depict CECP and five other “projects”: (1) the proposed switchyard; (2) the widening of Interstate-5 (“I-5”); (3) the double tracking of the LOSSAN rail corridor; (4) the Coastal Rail Trail; and (5) the Carlsbad/Vista Sewer Interceptor. (Petition at 1.) The Petition is premised on the City’s unsubstantiated opinion that further analysis is needed regarding the potential cumulative impacts of CECP and each of these “projects.” The City’s arguments rest on several flawed assumptions.

The City incorrectly assumes there is additional information available regarding the possible future I-5 widening project, the possible future LOSSAN double-tracking, and the City’s proposed Coastal Rail Trail and sewer interceptor that could alter Staff’s cumulative impacts analysis. The City’s arguments fail because its assumptions fail. Neither Staff, Caltrans, nor the Applicant has concluded that the possible future I-5 widening will have an unavoidable significant impact on CECP. Nor has CEC staff concluded that the possible future LOSSAN double-tracking, Coastal Rail Trail, or the sewer interceptor - either alone or cumulatively - will have an unavoidable

significant impact on CECP.³ In fact, specifics about many of the items that the City seeks Applicant to incorporate on a visual rendering are not yet defined “projects”; meaning, their routes and locations are not known, they have not secured funding, and they have not undergone the requisite California Environmental Quality Act (“CEQA”) review or otherwise obtained environmental clearance.⁴ The City has had, and will continue to have, ample opportunity to present its opinions throughout the CECP AFC process. Differing opinions, however, do not constitute grounds for the Committee to order Applicant to speculate about the possible impacts of these so-called “projects” and the potential impacts on CECP from such “projects,” nor for the Committee to unnecessarily delay the CECP AFC proceeding just weeks before CEC staff publishes the FSA. Further, as there are no official identified “project designs,” any attempt to produce a “rendering” would be hypothetical only, not to mention misleading.

i. Switchyard

Applicant provided the information sought by the City as it relates to the switchyard and CECP. Applicant included a 3-D model of the proposed 230 kV switchyard in the Project Enhancements and Refinements document (“PEAR”) on July 25, 2008. Applicant evaluated the visual impacts of the proposed switchyard based on the 3-D model and conducted simulations from

³ The City contends that a very similar request was made in September 2008. CEC staff did not require Applicant to respond to that request in order for staff to finalize the PSA. In fact, the scope of the City’s current Request Number 148 is far broader than the original request, as it includes the LOSSAN rail track widening as well as the Coastal Rail Trail, neither of which were included in the original request. Applicant is unable to respond to both the September 2008 request and the current request because they refer to non-existent and/or certainly non-described projects and such renderings as requested by the City would be misleading to the public and CEC staff, as well as the Committee, not to mention unreasonable.

⁴ The City contends that in the Ivanpah proceeding staff created a list of “probable future projects.” While a list of “future foreseeable projects” was in fact created in Ivanpah (see Table 3 of Ivanpah PSA), the list is accompanied by a map depicting the location of the future projects. Here, Applicant and Staff have presented as thorough an analysis of CECP’s cumulative impacts as possible, given the reliable information presently available. Caltrans is considering four potential alignments for widening I-5 adjacent to the CECP site and has not chosen a preferred “project” or alignment, nor issued a draft environmental impact report. The same is true for the possible future LOSSAN double tracking of the rail line. While a “programmatic level EIR” for the full possible future LOSSAN double-tracking has been completed, environmental review of a specific rail location and related project components for the specific section of track that will travel through the City of Carlsbad has not been completed.

Key Observation Points and View Points where the proposed switchyard would be visible. This visual analysis is included in section 5.13 of the PEAR. Thus, there is nothing more to provide.

ii. Widening of I-5

CEC staff has taken the position that it will not speculate on possible impacts from the I-5 widening project because there is no specific and publicly available project description with alternatives and the “project” has not undergone CEQA review.

[S]taff did not speculate in its PSA regarding visual simulations of the proposed CECP and the potential for a widened Interstate 5 (I-5) freeway, which runs east of the proposed site. However, despite the lack of specific information, and a stated I-5 alignment alternative, visual simulations were made by the City of Carlsbad, which staff believes are inaccurate. The City has persisted, through filings and motions, to ask the applicant to produce visual simulations containing the CECP and a widened I-5 freeway.

While it is very unlikely that Caltrans will release its Final EIR/EIS before the conclusion of the 07-AFC-6 proceeding, staff will recommend appropriate, and proportionate mitigation for the project’s contribution to cumulatively significant visual impacts, which will be reflected in the FSA. Importantly, staff will avoid speculation on possible impacts from a Caltrans project (I-5 widening) that has not yet been subject to CEQA review.

(CEC Staff Status Report #6 (Apr. 24, 2009).) Applicant’s previously submitted visual renderings do not include the I-5 widening. Given the initial phase that the Caltrans “project” is in - with no specific preferred alignment for the I-5 widening officially selected and no draft EIR released for public review – there is no need to speculate as to possible effects of CECP and the I-5 widening. It remains Applicant’s position (consistent with that of CEC staff) that given the early preliminary phase that Caltrans is in at this time - with no specific preferred alignment for the I-5 widening officially selected and no draft EIR released for public review – there is no justification for further speculation as to possible effects of CECP and the widening, which may simply cause unnecessary and inaccurate alarm to the residents of Carlsbad.

iii. Double tracking of LOSSAN rail corridor

The double-tracking has been evaluated only on a programmatic level and the exact location and impacts on CECP remain unknown and highly speculative. The double tracking is fourth on the LOSSAN priority list (cited by the City and docketed on March 9, 2009), and will only undergo construction by the end of 2013 if it receives funding. Applicant believes the double tracking is too speculative to be considered “reasonably foreseeable” under CEQA. Hence, a simulation is unnecessary.

iv. Coastal Rail Trail

The City’s Precise Development Plan (“PDP”) requires a mutually agreeable easement location between the City and the Encina Power Station (“EPS”) property owner Cabrillo Power LLC (“Cabrillo Power”) for the location of the Coastal Rail Trail. To date, the two entities have not agreed on a specific easement location or other details. Furthermore, Cabrillo Power is not required to grant an easement for the Coastal Rail Trail in a mutually agreeable location until occupancy of the Carlsbad Desalination Project, which is still several years away. In the meantime, Cabrillo Power remains committed to working with the City to define a mutually agreeable easement location for the Coastal Rail Trail, but the exact location of the Coastal Rail Trail remains too speculative to include in a visual simulation.

Also, although the City’s position remains that the easement for the Coastal Rail Trail should be co-aligned with the easement for the new Sewer Interceptor project, there is nothing in the PDP or any other agreement between Cabrillo Power and the City to indicate that the easements for the Coastal Rail Trail and the Sewer Interceptor project must be co-aligned. There are suitable locations for the Coastal Rail Trail other than following along the sewer interceptor line.

v. Sewer Interceptor

The City seeks to compel Applicant to include on a visual rendering of the Sewer Interceptor Project that is underground and would not result in any change to the visual environment at CECP. While it is possible that the new lift station associated with the sewer line may involve some small

above-grade structure, such structure would be very limited in size.⁵

D. The Request Seeks Information Not Required By the Warren Alquist Act (“WAA”) or CEQA, and Information Outside the Scope of the CECP AFC Proceeding

The City has not been deprived, nor will it be deprived during the remainder of the CECP AFC proceeding, of any opportunity to provide information or its opinion to the Committee and Staff regarding CECP. The City has been actively involved in the CECP proceeding since the beginning. The City had the opportunity to submit comments on the PSA, including its differing opinions on the cumulative impacts of the Caltrans project and others on CECP. In addition, the City has issued numerous data requests to Applicant, and, as an intervenor, the City will have the opportunity to offer testimony or other evidence as well as examine witnesses at the CECP evidentiary hearings on CECP. (20 Cal. Code Regs. § 1712.)

Applicant and Staff have presented as thorough an analysis of CECP’s cumulative impacts as possible, given the information available. Additional analysis of the cumulative effects associated with CECP is not feasible because Caltrans has not finalized its plans for widening I-5 in the vicinity of the CECP site, nor have the LOSSAN double tracking, Coastal Rail Trail, or sewer interceptor routes been determined.

Drafting an environmental review document under CEQA necessarily involves some forecasting, but, nevertheless, Applicant “must use its best efforts to find out and disclose all it reasonably can.” (14 Cal. Code Regs. § 15144.) “[A] good-faith and reasonable disclosure of cumulative impacts is sufficient.” (*Fairview Neighbors v. County of Ventura* (1985) 70 Cal.App.4th 238, 245.) Applicant has included all available information on the I-5 widening in its analysis of CECP’s potential visual impacts. (Data Responses, Set 2, Visual Resources #105, p.32 (March 19, 2008).) Applicant cannot, however, predict whether Caltrans will choose to attempt to condemn a

⁵ Applicant maintains its position that the PDP contemplates a replacement interceptor/lift station, and not a second sewer interceptor/lift station at the property. Like the Coastal Rail Trail, the sewer interceptor/lift station requires a mutual agreement not just of the location, but of the parameters of the easement for the sewer interceptor/lift station. To date, all of these issues remain outstanding between the City and Applicant.

portion of Applicant's property and remove the existing earthen berm to align I-5 to the west of its current path, nor can Applicant or Staff predict which alignment Caltrans will determine is the preferred alignment for the widening project. Moreover, neither Applicant nor Staff can predict whether Caltrans will mitigate visual impacts or that ample space will remain to maintain planned visual screening included in the CECP. The same is true for the double tracking of the LOSSAN rail corridor and the Coastal Rail Trail. Thus, each of these "projects" and their precise impacts, if any, on CECP remain too speculative to allow for any further analysis at this time. If, after thorough investigation, Applicant finds that "a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact." (14 Cal. Code Regs. § 15145.) Applicant and CEC staff have complied with CEQA in analyzing the cumulative impacts associated with CECP.

Staff analyzed the potential cumulative impact of the I-5 widening in the PSA, fully acknowledging the potential for a significant adverse cumulative impact, if left unmitigated. (PSA, p.4.12-26 – 4.12-27.) Staff concluded that "Caltrans should plan and properly mitigate for the I-5 widening," including "fully investigating additional I-5 widening alternatives, and implementing appropriate mitigation to the extent feasible." (PSA, p.4.12-27.) Public comments to Staff included a request for a visual simulation of CECP with a future widened I-5, but Staff responded that it "believes that further clarification about the I-5 project is needed prior to" requesting such a simulation. (PSA, p.4.12-32.) Caltrans' February 5, 2009 letter did not provide "further clarification." In fact, it confirmed that to date, four alternatives remain. Moreover, based on CEC Staff's April 24, 2009 Status Report, it appears that CEC Staff has received enough clarification on the possible contribution of the widening to CECP and as such will "recommend appropriate, and proportionate mitigation for the [I-5 widening's] contribution to cumulatively significant visual impacts."

Applicant has made a good-faith effort to provide the CEC with all available known information regarding possible cumulative visual impacts from and involving CECP. The information already provided by Applicant allows for the in-depth analysis of CECP and potential

visual impacts associated with CECP, if any, allowing the CEC to comply with the WAA and CEQA. As such, given that the FSA should be issued by staff within in the next few weeks and Staff has not requested any additional visual renderings from Applicant, coupled with the fact that Staff's position remains that the City's own visual simulations of CECP and the I-5 widening are inaccurate, the City's request is outside the scope of the CECP AFC proceeding and should be denied in its entirety.

III. CONCLUSION

Applicant has made a strong demonstration that answering Request 148 would be unduly burdensome, distracting, if not damaging to the environmental review process, and is not required by law. As shown above, Applicant has significant objections to Request 148 and respectfully requests that the City's Petition be denied in its entirety.

Date: May 1, 2009

Stoel Rives LLP

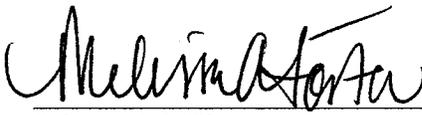

for John A. McKinsey
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EXHIBIT A



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April 9, 2009

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VIA EMAIL AND US MAIL

Mr. Joseph Garuba, Municipals Project Manager
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DOCKET	
07-AFC-6	
DATE	APR 09 2009
RECD.	APR 09 2009

Re: Carlsbad Energy Center Project (07-AFC-6)
Applicant's Objections to City of Carlsbad's Data Requests, Set 4 (#142-151)

Dear Mr. Garuba:

On or about March 23, 2009, Applicant Carlsbad Energy Center, LLC ("Applicant") received Intervenor the City of Carlsbad's ("City") data requests related to the Carlsbad Energy Center Project ("CECP"). Applicant objects to the City's Data Requests on several grounds. First, the City's data requests are untimely. Second, much of the information requested by the City exceeds the scope of the CECP CEC AFC proceeding and is therefore irrelevant to such proceeding. Lastly, the City seeks information from Applicant that requires Applicant to hypothesize about projects outside the scope of CECP and their potential effect on CECP.

Applicant recognizes the City's right as an Intervenor to participate in the CECP proceedings, as well as Applicant's duty to respond to all timely and relevant data requests about CECP. (20 Cal. Code Reg. §§ 1207, 1716(b).) However, Applicant objects to the City's late filing of data requests for CECP. Under the California Energy Commission's ("CEC") regulations, all requests for information shall be submitted no later than 180 days from the date the CEC determines an application for certification ("AFC") is complete, unless the CEC committee conducting the AFC proceedings allows requests for information at a later time for good cause. (20 Cal. Code Reg. § 1716(e).) The CEC found that the CECP AFC was complete or "data adequate" on October 31, 2007. Therefore, all requests for information from the CEC or other parties to the CECP AFC proceedings were required to be filed before May 2008, except for good cause.¹ The City's delay in officially intervening in the CECP proceeding – some fifteen

¹ Applicant received numerous data requests from the CEC within four months of the CECP AFC being accepted as data adequate. The CEC issued 45 additional data requests after the end of the standard 180-day period. Most recently, such additional requests involved outstanding air



Mr. Joseph Garuba, Municipals Project Manager

April 9, 2009

Page 2

months after the CECP AFC was complete – and the issuance of ten additional data requests almost three months after CEC Staff issued the Preliminary Staff Assessment (“PSA”) – is not good cause for the City to issue data requests at this late stage in the CECP AFC process.

It is not Applicant’s intention to shirk its responsibility to timely respond to data requests from the City. However, it is not reasonable for the City, having intervened in the CECP proceedings late in the CEC certification process, to serve data requests on Applicant approximately a month prior to the date that the CEC anticipates issuing a Final Staff Assessment (“FSA”) for CECP.

With these objections, Applicant has no further intent to respond to the City’s data requests at this time. Should CEC staff or the CEC CECP assigned committee disagree with this position or request Applicant to address certain specific requests propounded by the City, then Applicant would consider these requests in good faith.

Very truly yours,

Alvin Cook for John A. McKinsey

John A. McKinsey

JAM:kjh

cc: See Attached Proof of Service

quality issues that arose after the issuance of the Preliminary Determination of Compliance (“PDOC”) (Staff Data Requests Set Number 4, issued January 22, 2009), to which Applicant responded on February 19, 2009. Applicant has also responded to numerous issues of concern and data requests filed by the City since the AFC was deemed complete.

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 4/08/2009)

Carlsbad Energy Center Project
Applicant's Objections to City of Carlsbad's Data Requests, Set 4 (#142-151)

CALIFORNIA ENERGY COMMISSION
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DECLARATION OF SERVICE

I, Elizabeth Hecox, declare that on April 9, 2009, I deposited copies of the aforementioned document in the United State mail at 980 Ninth Street, Suite 1900, Sacramento, California 95814, 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.


Elizabeth Hecox

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 4/29/2009)

Carlsbad Energy Center Project
Applicant's Response to the City of Carlsbad's Petition to Compel Response to
Data Requests

CALIFORNIA ENERGY COMMISSION
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DECLARATION OF SERVICE

I, Elizabeth Hecox, declare that on May 1, 2009, I deposited copies of the aforementioned document in the United State mail at 980 Ninth Street, Suite 1900, Sacramento, California 95814, 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.



Elizabeth Hecox