



**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 (AFC) FOR THE
CARLSBAD ENERGY CENTER PROJECT**

DOCKET No. 07-AFC-6

**COMMITTEE RULING ON INTERVENOR POWER OF VISION’S
PETITION TO MODIFY ORDER COMPELLING DATA RESPONSES**

On May 27, 2009, Intervenor Power of Vision (POV) issued a Data Request to Carlsbad Energy Center, LLC (Applicant), for specified fuel use and emissions data. On June 19, 2009, the Applicant objected to the Data Request. POV responded on June 29, 2009, by filing a Petition to Compel Response to Data Requests. Following response from the Applicant, the Carlsbad AFC Committee, on September 15, 2009, ordered the Applicant to “provide the electronically generated data from the CEMS [continuous emission monitoring systems] for Units 1 through 3 for 2003 through 2008.” That order partially satisfied POV’s request for data from 2002 through 2008, leaving out data for 2002 and the portion of 2003 for which electronic CEMS data is not available. Subsequently the Applicant provided the CEMS data.

On September 25, 2009, POV further petitioned for a modification of our order to include the additional data from 2002 and 2003. It argues that the information is “of prime importance to us for our analysis of the pollution offsets and required ERCs for this project, since the 2002 and 2003 period is when the largest emissions occurred, and even a small anomaly in the data from this period will have a marked effect on the offsets.”

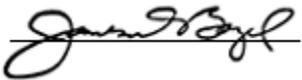
In our previous order, we drew a careful balance between the burden on the applicant to produce the requested data and the late timing of the request, finding it appropriate to require the relatively easily producible electronic data but not data held in less easily produced forms. We see no reason to change that decision. The San Diego Air Pollution Control District’s Final Determination of Compliance calculates emissions during the period prior to the installation of new emission controls in 2003 as if the new controls were installed, thus addressing POV’s concern about that those emissions would improperly affect the offsets.¹ Further, POV’s concern for the 2002—2003 period is first found in its most recent petition, not in the original Data Request or Petition to Compel, where the emphasis was placed on perceived anomalies in the data for 2007 and 2008.

¹ August 3, 2009 Final Determination of Compliance, pp. 21 – 24.

DOCKET	
07-AFC-6	
DATE	NOV 09 2009
RECD	NOV 09 2009

For the reasons stated above, the Further Petition to Compel Data Responses is **denied**.

Dated November 9, 2009, at Sacramento, California.

A handwritten signature in black ink, appearing to read "James D. Boyd", written over a horizontal line.

JAMES D. BOYD
Vice Chair and Presiding Member
Carlsbad AFC Committee

A handwritten signature in black ink, appearing to read "Karen Douglas", written over a horizontal line.

KAREN DOUGLAS
Chairman and Associate Member
Carlsbad AFC Committee



**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 10/23/2009)**

APPLICANT

David Lloyd
George Piantka, PE.
Carlsbad Energy Center, LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
david.lloyd@nrgenergy.com
george.piantka@nrgenergy.com

APPLICANT'S CONSULTANTS

Robert Mason, Project Manager
CH2M Hill, Inc.
6 Hutton Centre Drive, Ste. 700
Santa Ana, CA 92707
Robert.Mason@ch2m.com

Megan Sebra
CH2M Hill, Inc.
2485 Natomas Park Drive, Ste. 600
Sacramento, CA 95833
Megan.Sebra@ch2m.com

COUNSEL FOR APPLICANT

John A. McKinsey
Stoel Rives LLP
980 Ninth Street, Ste. 1900
Sacramento, CA 95814
jamckinsey@stoel.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

Terramar Association
Kerry Siekmann & Catherine Miller
5239 El Arbol
Carlsbad, CA 92008
siekmann1@att.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Allan J. Thompson
21 "C" Orinda Way #314
Orinda, CA 94563
allanori@comcast.net

City of Carlsbad
South Carlsbad Coastal
Redevelopment Agency
Joseph Garuba,
Municipals Project Manager
Ronald R. Ball, Esq., City Attorney
1200 Carlsbad Village Drive
Carlsbad, CA 92008
E-mail preferred
Joe.Garuba@carlsbadca.gov
rball@ci.carlsbad.ca.gov

California Unions for Reliable Energy
("CURE")
Gloria D. Smith & Marc D. Joseph
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080
gsmith@adamsbroadwell.com

Center for Biological Diversity
c/o William B. Rostov
EARTHJUSTICE
426 17th St., 5th Floor
Oakland, CA 94612
wrostov@earthjustice.org

Power of Vision
Julie Baker & Arnold Roe, Ph.D.
4213 Sunnyhill Drive
Carlsbad, California 92013
powerofvision@roadrunner.com

Rob Simpson
Environmental Consultant
27126 Grandview Avenue
Hayward, CA 94542
rob@redwoodrob.com

ENERGY COMMISSION

JAMES D. BOYD
Vice Chair and Presiding Member
jboyd@energy.state.ca.us

KAREN DOUGLAS
Chair and Associate Member
kldougla@energy.state.ca.us

Paul Kramer
Hearing Officer
pkramer@energy.state.ca.us

Mike Monasmith
Siting Project Manager
mmonasmi@energy.state.ca.us

Dick Ratliff
Staff Counsel
dratliff@energy.state.ca.us

Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Maggie Read, declare that on November 9, 2009, I served and filed copies of the attached, Committee Ruling on Intervenor Power of Vision's Petition to Modify Order Compelling Data Responses, dated November 9, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[http://www.energy.ca.gov/sitingcases/carlsbad/index.html\]](http://www.energy.ca.gov/sitingcases/carlsbad/index.html). The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (preferred method);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

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

Original signed by:
Maggie Read