DOCKET
07-AFC-6
DATE RECD. FEB 16 2010

Public Comments Regarding CECP

TO: CEC Commissioners
RE: Carlsbad Energy Center Power Plant (Docket No. 07-AFC-06)

Who is presenting professional facts in this case and who is presenting questionable facts? With the evidentiary hearings just completed, you can now answer that question from first hand experience.

Comparing the witnesses, and their testimony, you should be confident in the information and recommendations presented by the CEC staff and have some troubling questions about the testimony of some of the city's witnesses.

On Visual Impacts, both CEC staff and the CECP witnesses seemed very thorough, professional and confident in their methods of review. Their findings are based on professional standards used for visual impact analysis. On the other hand, you have the city's key witness, Mr. Martinez, who started his testimony with a basic retraction of his work. He said his work should not be characterized as a visual impact analysis. He described it as "visualization". Mr. Martinez testified that Mr. Garuba directed what "observation points" to use. Those points were obviously from a view floating in the air above the lagoon or flying overhead in a helicopter. Proper visual analysis is supposed to be based on documented public observation points but that was not the city's direction. Why was there a lack of any vegetation on the city's "visualization"? Mr. Martinez answer was that he was not directed to show any. There will be undisturbed, enhanced or additional vegetation around the site required by the conditions of certification. The city knows this. So why did the city direct their "evidence" be prepared without any vegetation? Is this a deliberate misrepresentation of the true visual impact? Aren't evidentiary hearings for the purpose of presenting factual evidence?

Mr. Neu, the City Planning Director, testified that there will be a significant visual impact and that his assessment was based on the city's "visualization". Does the factual "evidence" support the city's claim of significant visual impact? Does an accurate visual simulation of the project support that testimony or does city directed visualization support his testimony? This direction by the city to manipulate the facts and then provide visual analysis testimony based on that manipulation should raise questions about the city's intent.

Regarding Alternative Sites analyzed; CEC staff presented the air safety concerns and the recently adopted airport land use plan clearly states that power plants, larger than "peaker" plants (50 MW), are not allowed land uses for the Safety Center and Oaks North sites. Then the city testifies that these are allowed land uses to construct a power plant that can generate 550MW. The city is saying that its interpretation of the airport land use plan is that if 1- 50MW peaker plant is acceptable then 11- 50MW peaker plants on one site still complies with the land use plan. Does this interpretation sound reasonable? If there were air safety concerns with a one dual cycle power plant aren't the safety

concerns of 11 single cycle plants that much greater? Is the city really serious about wanting a power plant located at Oaks North or is this just more smoke and mirrors?

Here's another question about the city's actions; why is it that the city says that they can (will) not provide reclaimed water to the CECP site but they can provide it at the alternative sites? The city only has one reclaimed water system. If the city does not have a supply problem with providing reclaimed water to an alternative site then there is no supply problem to provide water to CECP. What then could be the reason behind the city's statement of not having water available for the CECP? It's like the little boy who said "if you don't let me play in your game by my rules I'm taking my ball and going home."

If the CECP is licensed and built as planned and the city refuses to provide reclaimed water, then CECP is forced (by the city) to use desalinated ocean water. Some interveners objected to the use of that additional ocean water. Should those objections not be aimed at the city instead of CECP?

Mr. Garuba made some confusing written statements about reclaimed water. One statement was that CECP never asked the city for reclaimed water. Yet NRG has provided evidence in the form of a "Will Serve" letter requesting reclaimed water. Also submitted as evidence are e-mails to and from city staff members about meetings and conversations that appear to be working on the details of supplying reclaimed water. Suddenly there is an e-mail that says that those same city staff members were told to direct any further inquiries from NRG to Mr. Garuba. It seems that is when the availability of reclaimed water evaporated. There are public documents in the form of master water plans that were prepared by city engineers or its engineering consultants that provide information on future reclaimed water supply via the expansion of the city's reclaimed water plant. Those public documents clearly show that sufficient capacity is planned for that can meet the supply needs of the CECP. On the other hand, there is an excel spread sheet attached to a letter from Mr. Garuba that purports that supply is not available. The source of that excel spreadsheet is not identified. Once again it appears that the evidence did not support the city testimony, therefore the city created evidence to support what it wanted.

There should be no doubt that a decision on this case will be based upon the professional facts. The CEC staff has given their opinion and recommendations based on those facts.

It is unfortunate that many of the citizens of the City of Carlsbad have had their opinions formed by the questionable facts presented to them by their own city officials.

Sincerely,

Allison L'Heureux

Allison L'Heureux
Employed within the City of Carlsbad