

STATE OF CALIFORNIA
Energy Resources Conservation
and Development Commission

DOCKET 07-AFC-6
DATE <u>JAN 06 2010</u>
RECD. <u>JAN 06 2010</u>

In the Matter of:)
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The Application for Certification of the)
CARLSBAD ENERGY CENTER PROJECT)
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DOCKET NO: 07-AFC-6

**CENTER FOR BIOLOGICAL DIVERSITY'S OPENING TESTIMONY,
PRELIMINARY IDENTIFICATION OF CONTESTED ISSUES,
AND WITNESS AND EXHIBIT LISTS**

January 6, 2010

William B. Rostov
(State Bar No. 184528)
EARTHJUSTICE
426 17 St., 5th Floor
Oakland, California 94612
Tel: (510) 550-6725; Fax: 510-550-6749
wrostov@earthjustice.org

Attorney for Intervenor CENTER FOR BIOLOGICAL DIVERSITY

STATE OF CALIFORNIA

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AND WITNESS AND EXHIBIT LISTS**

Pursuant to the Committee’s Revised Notice of Prehearing Conference and Evidentiary Hearing (Dec. 21, 2009), Intervenor Center for Biological Diversity (“the Center”) provides a preliminary identification of contested issues, witness list, and a list of exhibits. A major failing of the Final Staff Assessment is that the greenhouse gas analysis fails to find that the emission of more than 800,000 tons of new greenhouse gases is a significant effect pursuant to CEQA.

Preliminary Identification of Contested Issues:

The Center identifies the following issues, but reserves the right to supplement this list and reserves the right to participate in issues raised by other parties:

1. Inadequate Project Description -- There is inadequate analysis of the use of regasified LNG, which is a foreseeable fuel source for the plant, resulting in the failure to analyze and describe all of the environmental impacts of the project such as identifying the additional greenhouse gases resulting from the use of LNG.

2. Failure to find that the more than 800,000 tons of CO2 equivalent emissions from the Project is a significant impact. This failure leads to two corollary issues:

- a. There is inadequate analysis of potential greenhouse gas mitigations.
 - b. There is a failure to consider alternatives that have fewer greenhouse gas emissions and to adequately analyze whether the project could be sized smaller or be replaced in whole or in part by renewable energy.
3. Failure to discuss or analyze the amount of greenhouse gas emissions that would result in a significance finding.
 4. Failure to support the claim that the project will result in a net reduction in greenhouse gas emissions.
 5. Failure to adequately describe the nature of the cumulative problem, i.e. adding more greenhouse gases to a world in which significant reductions are required.
 6. Failure to adequately discuss the past, present, and future projects that contribute to the cumulative effect of more greenhouse gas emissions.
 7. Improper weighing of purported environmental benefits of the project against the additive effect of the project on climate change.
 8. Failure to adequately analyze how this specific project is an appropriate addition to the electric system that will help achieve California's stated policies of achieving a 33% RPS by 2020 and of reducing greenhouse gas emissions by 80% by 2050.
 9. Failure to show that a significant new source of greenhouse gases is needed.
 10. Failure to adequately consider a reasonable range of alternatives.

Witness List:

Rory Cox. (Testimony submitted concurrently).

Preliminary List of Exhibits:

The Center plans on cross-examining witnesses with respect to the issues identified above. The Center may also provide rebuttal testimony. The Center's Prehearing Conference

Statement will summarize the scope of the cross examination. The Center presents a preliminary list of exhibits that includes documents that may be introduced on cross-examination based on the urging of the hearing officer to provide disclosure sooner rather than later.¹

The Center is notifying all parties that it will seek, at the appropriate time in the proceeding, admission of the following documents through official notice and/or during use in cross examination to determine if the requisite environmental analysis was conducted.

The following documents were cited by the CEC staff in the FSA. The Center believes that these would be properly filed as staff exhibits. However, to ensure that each of the documents is part of the record, the Center lists them in this filing:

Exhibit	Date	Description	Web Link
600	12/03	2003 Integrated Energy Policy Report	http://www.energy.ca.gov/reports/100-03-019F.PDF
601	2007	2007 Integrated Energy Policy Report	http://www.energy.ca.gov/2007publications/CEC-100-2007-008/CEC-100-2007-008-CMF.PDF
602	12/09	2009 Integrated Energy Policy Report	http://www.energy.ca.gov/2009publications/CEC-100-2009-003/CEC-100-2009-003-CMF.PDF
603	7/06	Anders and Bialek, "Technical Potential for Rooftop Voltaics in the San Diego Region"	http://www.sandiego.edu/epic/publications/documents/060309_ASESPVPotentialPaperFINAL.pdf
604	5/27/09	Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California	http://www.energy.ca.gov/2009publications/CEC-700-2009-009/CEC-700-2009-009.PDF
605	10/08	ARB, Climate Change, Proposed Scoping Plan a Framework for Chang Pursuant to AB 32.	http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf

The following documents were not referenced by the CEC. These include the documents referenced by Mr. Cox as well as Exhibits that may be introduced on cross-examination:

¹ Please note, the Center plans to include a report that discusses the costs of rooftop solar that is due to be released in January, 2010, and is currently unavailable.

Exhibit	Date	Description	Web Link
606	9/2/04	CPUC Rulemaking 04-01-025	http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/39721.htm
607	8/09	Sempra LNG Update Presentation to CEC	http://www.energy.ca.gov/lng/documents/costa_azul/2009-08-04_Sempra_LNG_Update_Presentation.pdf
608	2008	Sempra Energy 2008 Financial Report	http://www.sempra.com/annualreport/financial_report.pdf
609	5/15/08	Sempra Energy Press Release re: Costa Azul	http://public.sempra.com/newsreleases/viewPR.cfm?PR_ID=2270&Co_Short_Nm=SE
610	9/22/09	DOE Order Allowing Sempra to Import and Export LNG	http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders_Issued_2009/ord2699.pdf
611	8/4/09	Royal Dutch Shell Press Release re: LNG and Natural Gas Contracts with Gazprom Global	http://www.shell.com/home/content/media/news_and_library/press_releases/2009/gazprom_shell_signing_contract_08042009.html
612	4/17/09	DOE Order Allowing Gazprom to Import LNG from Various International Sources	http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders_Issued_2009/ord2629.pdf
613	12/15/09	EPA: Endangerment and Cause or Contribute Findings for Greenhouse Gases	http://edocket.access.gpo.gov/2009/pdf/E9-29537.pdf
614	4/08	Hansen, J. <i>et al.</i> , "Target Atmospheric CO ₂ : Where should Humanity Aim?"	http://arxiv.org/ftp/arxiv/papers/0804/0804.1126.pdf
615	4/08	James Hansen, "Tipping Point: Perspectives of a Climatologist"	http://www.columbia.edu/~jeh1/2008/StateOfWild_20080428.pdf
616	5/11/08	Bill McKibben OpEd in LA Times - Civilization's last chance	http://www.latimes.com/news/opinion/commentary/la-op-mckibben11-2008may11,0,2342317,print.story
617	2/27/08	Matthews, H.D., and Caldeira, K. "Stabilizing climate requires near-zero emissions,"	(included on CD -- not available online)
618	2008	Collision Course: How Imported Liquefied Natural Gas Will Undermine Clean Energy in California	http://www.pacificenvironment.org/downloads/PacEnvCollisionCourse%20FINAL.pdf
619	5/7/06	Heede, LNG Supply Chain GHG Emissions Report	http://slc.ca.gov/Division_Pages/DEPM/DEPM_Programs_and_Reports/BHP_Deep_Water_Port/ERRATA_CSLC/Vol%20II/EDC%20Attachments%20Vol%20II-06a.pdf
620	2007	Jaramillo, et al. "Comparative Life Cycle Air Emissions of Coal, Domestic Natural Gas, LNG, and SNG for Electricity Generation"	http://www.desertrockenergyproject.com/Griffin%20-%20Final%20LNG%20GHG%20analysis%20(2006).pdf

621	7/06	California Climate Change Center, Our Changing Climate Assessing the Risks to California	http://www.climatechange.ca.gov/publications/biennial_reports/index.html
622	6/1/05	Governor Schwarzenegger's Executive Order S-3-05	http://gov.ca.gov/index.php?/print-version/executive-order/1861/
623	6/09	33% Renewable Portfolio Standard Implementation Analysis Preliminary Results	http://www.cpuc.ca.gov/NR/rdonlyres/1865C207-FEB5-43CF-99EB-A212B78467F6/0/33PercentRPSImplementationAnalysisInterimReport.pdf
624	10/08	Renewable Portfolio Standard Quarterly Report	http://www.cpuc.ca.gov/NR/rdonlyres/A7691A23-1B7E-4B02-8858-9D964A3B17A3/0/RPS_Rpt_to_Legislature_Oct_2008.pdf
625	1/6/10	Current Renewable Procurement Status	http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm
626	6/19/08	OPR Technical Advisory on CEQA and Climate Change	http://www.opr.ca.gov/ceqa/pdfs/june08-ceqa.pdf
627	10/24/08	CARB draft Recommended Approaches for Setting Interim Significance Thresholds for GHG under CEQA	http://www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposal102408.pdf
628	12/5/08	South Coast Interim CEQA GHG Significance Threshold	http://www.aqmd.gov/hb/2008/December/081231a.htm
629	1/08	California Air Pollution Control Officers, CEQA and Climate Change	http://www.capcoa.org/rokdownloads/CEQA/CAPCOA%20White%20Paper.pdf
630	10/09	CEC: Combined Heat & Power Market Assessment	http://www.energy.ca.gov/2009publications/CEC-500-2009-094/CEC-500-2009-094-D.PDF
631	8/05	Anders, et al. "Potential for Renewable Energy in the San Diego Region"	http://scerpfiler.org/cont_mgt/doc_files/E-04-04.pdf
632	10/07	Powers, "San Diego Smart Energy 2020"	http://www.sdsmartenergy.org/11-oct-07_SD_Smart_Energy_2020_exec-summary_FINAL1.pdf

DATED: January 6, 2010



William B. Rostov
Earthjustice
Attorney for Center for Biological Diversity

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**Testimony of Rory Cox
Carlsbad Energy Center Project
Docket No. 07-AFC-6**

January 6, 2010

Rory Cox
California Program Director
Pacific Environment
251 Kearny Street, Second Floor
San Francisco, CA 94108
Ph: 415-399-8850 x302
Fax: 415-399-8860
rcox@pacificenvironment.org

I. Introduction

My testimony addresses the likelihood of the use of natural gas derived from imported Liquefied Natural Gas (LNG) in the proposed Carlsbad Energy Center Project. I am a Program Director at a public interest, non-profit organization with 501-c-3 status. I have held this position for four years. The focus of Pacific Environment's California Program is to ensure the proper implementation and enforcement of California's clean energy policies and regulations, especially in the natural gas industry. I have provided expert comments to several LNG import projects in California, Mexico, and Oregon. I have also provided expert comments on several natural gas power plants throughout California. My analysis of public purpose and need played a direct role in the cancellation of the Cabrillo Port LNG project in 2007. My articles have been published in Natural Gas & Electricity Journal, Natural Gas Weekly, and in numerous daily newspapers. I coordinate a West Coast wide coalition of community groups opposed to the import of Liquefied Natural Gas.

II. SDG&E was granted use of foreign-sourced natural gas over domestic supplies.

Project proponents argued that they had no way of knowing whether the natural gas used in the Carlsbad Energy Center will be derived from imported LNG from the Costa Azul LNG project in Mexico. However, project proponents also state that their project will run on natural gas delivered by San Diego Gas & Electric (SDG&E), a company owned by Sempra Energy.

According to numerous statements made by both SDG&E and Sempra, it is clear that this project will, in the long term, be powered at least in part by regasified LNG from Costa Azul. In 2004, SDG&E made the case at the California Public Utilities Commission that new receipt points on the California/Mexico border were needed. In particular, the company proposed the "Interstate Pipeline Capacity Acquisition Procedure" as a means to "maximize capacity acquisition opportunities with regulatory certainty."¹ One of the receipt points specified was Otay Mesa, which provides a direct gateway to the same SDG&E service territory that will be served by Carlsbad Energy Center Project.

¹ CPUC Rulemaking 04-01-025, at 13.



From Presentation “Sempra LNG Update,” August 2009.

Bringing natural gas from Mexico into the SDG&E service territory was one of SDG&E’s main objectives in that proceeding. SDG&E also asked the CPUC to allow for the authority to renegotiate reduced amount of natural gas from pre-existing contracts and to terminate the expiring contracts with El Paso Natural Gas Company (El Paso), Transwestern Pipeline Company (Transwestern), and Gas Transmission Northwest Corporation (GTNC) in conjunction with preserving the utilities’ rights of first refusal for firm capacity on these interstate pipelines. On September 2, 2004, the CPUC granted these requests.

SDG&E would be interested in such an arrangement in order to supply natural gas from Costa Azul to the customers in their service territory, largely for electricity generation. They were granted that authority by the CPUC. Once natural gas crosses the Otay Mesa receipt point, it enters into the SDG&E natural gas grid.

III. More recent statements indicate intention to sell Costa Azul natural gas into SDG&E service territory.

Statements and analyses by Sempra and SDG&E since the 2004 decision make it clear that a significant reason for Sempra’s \$1 billion investment into the Costa Azul LNG terminal is to sell it via affiliate transactions to SDG&E².

Below is a slide from a presentation made by Dale Kelly-Cochrane to the California Energy Commission in August, 2009. Each bullet point contains alleged benefits of the access of LNG into the California market. Terms such as “Allows current delivery of

² See, e.g., Sempra Energy 2008 Financial Report at 25, 30, 35, and 150; May 15, 2008 Sempra Energy Press Release re: Costa Azul Ready for Commercial Operation; and U.S. Department of Energy Order No. 2699 Granting Blanket Authorization to Import and Export Natural Gas (including liquefied natural gas) from and to Canada and Mexico.

regasified LNG to California” and “Costa Azul Terminal will act in a similar manner to existing gas production basins in North America” paint a picture of an abundance of natural gas from Costa Azul coming into California. Given that the Carlsbad Energy Center would be one of the opportunities for electricity generation past the Otay Mesa receipt point, it is clear that unless Costa Azul is a \$1 billion “white elephant” that remains unused for decades, any significant throughput of natural gas will end up there.



Costa Azul Terminal

- ▶ Access to regasified LNG from Costa Azul provides free insurance for California consumers
 - Costa Azul Terminal funded by Sempra LNG
 - Otay Mesa SDG&E receipt point construction and North Baja Pipeline expansion funded by natural gas shippers
 - Physical flows not subject to east of California demand
- ▶ Construction of all required pipeline infrastructure is completed and in service
 - Allows current delivery of regasified LNG to California
 - Thoroughly tested during Costa Azul commissioning in 3rd Qtr 2008
- ▶ Costa Azul Terminal will act in a similar manner to existing gas production basins in North America that currently supply California (San Juan, Rockies & Western Canada)
 - Market forces will determine the actual level of supply from each region
- ▶ Regasified LNG delivered from Costa Azul to consumers in Mexico will “increase” existing natural gas supply for delivery to California consumers
 - Sempra LNG has contractual commitments to CFE that are currently being supplied by natural gas delivered from the US

Similarly, Royal Dutch Shell and Gazprom Global LNG, who hold contracts for half the 1 billion cubic feet per day LNG capacity at Costa Azul, have made clear their intention to sell regasified LNG into the United States.³

³ See e.g., August 4, 2009 Press Release by Royal Dutch Shell available at: http://www.shell.com/home/content/media/news_and_library/press_releases/2009/gazprom_shell_signing_contract_08042009.html; and U.S. Department of Energy Order No. 2629 Granting Blanket Authorization . . . to Import Liquefied Natural Gas from Various International Sources.

IV. The project will result in a substantial net increase in greenhouse gas emissions.

The science on global warming is indicating that the problem continues to get worse, and thus, the need to analyze all potential greenhouse gas sources from a project is essential. The EPA recently issued an Endangerment and Cause or Contribute Finding for Greenhouse Gases, which stated that “six greenhouse gases [carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆)] taken in combination endanger both the public health and the public welfare of current and future generations.”

Scientists, including NASA’s James Hansen, believe that we are already beyond a sustainable level of greenhouse gases in our atmosphere and that stabilization requires a reduction from current levels to 350 ppm.⁴ Certainly these conclusions should come as no surprise given the accelerating impacts of global warming that we are already seeing. Similarly, scientists are also questioning the belief that the 80 percent reduction in emissions below 1990 levels by 2050 will be sufficient. A recent paper by Matthews, H.D., and Caldeira, K. “Stabilizing climate requires near-zero emissions,” 35 *Geophys. Res. Letters* L04705 (2008), suggests that in order to stabilize atmospheric levels of greenhouse gases, CO₂ emissions must be reduced not just to 80 percent below 1990 levels but to “nearly zero” by mid-century.

Imported LNG carries a greenhouse gas penalty over that of domestic, North American natural gas delivered by pipeline. The reason is that much more energy is needed to liquefy the natural gas at the point of extraction abroad, ship it overseas, and regasify it at the LNG import terminal. There is consensus among several studies that this process adds significant greenhouse gas emissions. These studies include:

- Carnegie Mellon University, which found in its 2007 study that imported LNG had a 28 percent midpoint increase over domestic natural gas.⁵
- Richard Heede at Climate Mitigation Services, who concluded that the processing and transport of LNG in the supply chain from Australian to California added 25 percent more emissions.⁶
- Analysis done by Bill Powers at Powers Engineering concluded that LNG sourced from the Tangguh project in Indonesia and delivered to the Costa Azul terminal

⁴ See Hansen, J. *et al.*, “Target Atmospheric CO₂: Where should Humanity Aim?” *Open Atmos Sci J* 2008; 2:217-231. Available at: <http://arxiv.org/ftp/arxiv/papers/0804/0804.1126.pdf>. See also, Hansen, J. “Tipping Point: Perspectives of a Climatologist” *State of the Wild*. April 2008. Available at: http://www.columbia.edu/~jeh1/2008/StateOfWild_20080428.pdf and McKibben, B. “Civilization’s last chance.” *Los Angeles Times*. May 11, 2008. Available at: <http://www.latimes.com/news/opinion/commentary/la-op-mckibben11-2008may11,0,2342317,print.story>.

⁵ Jaramillo, P.; Griffin, W.; Matthews, H., Comparative Life-Cycle Air Emissions of Coal, Domestic Natural Gas, LNG, and SNG for Electric Generation. *Environmental Science and Technology* 2007, Vol. 41, No. 17, 6290.

⁶ Heede, Richard. LNG Supply Chain Greenhouse Gas Emissions for the Cabrillo Deepwater Port: Natural Gas from Australian to California. Climate Mitigation Services. May 7, 2006

would result in an increase of 25 percent greenhouse gas emissions over domestic natural gas.⁷ This is illustrated in the map below.



Source of LNG supply chain graphics: Michelle Foss, Center for Energy Economics Bureau of Economic Geology, University of Texas-Austin, LNG Access, PowerPoint presentation, California Energy Commission LNG Access Workshop, June 1-2, 2005.
Source of Tangguh raw gas CO₂ content estimate: BP Indonesia webpage (www.bp.com) - "Greenhouse gas emissions - The natural gas in the Tangguh fields contains approximately 10% CO₂ - relatively high by industry standards."
Source of LNG supply chain greenhouse gas contribution estimates: P. Jaramillo, Carnegie-Mellon University, Comparative Life Cycle Air Emissions of Coal, Domestic Natural Gas, LNG, and SNG for Electricity Generation, Environmental Science & Technology, published online July 25, 2007.

V. Conclusion

As long as the Costa Azul LNG terminal is operational, it remains highly likely that the Carlsbad Energy Center Project could be supplied with natural gas from the terminal. This would lead to a substantial increase in greenhouse gas emissions over the status quo.

Submitted by Rory Cox
January 6, 2010

⁷ Powers, Bill. *San Diego Smart Energy 2020: The 21st Century Alternative*. E-tech International. October 2007



**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 12/30/2009)**

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
500 Capitol Mall, Suite 1600
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
*ron.ball@carlsbadca.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, Jessie Baird, declare that on January 6, 2010, I served and filed copies of the attached, CENTER FOR BIOLOGICAL DIVERSITY'S OPENING TESTIMONY, PRELIMINARY IDENTIFICATION OF CONTESTED ISSUES, AND WITNESS AND EXHIBIT LISTS and EXHIBITS, dated January 6, 2010. 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:

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

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CALIFORNIA ENERGY COMMISSION

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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.


