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STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

Docket No. 07-AFC-6

The Application for Certification for the
CARLSBAD ENERGY CENTER
PROJECT

Response to the City of Carlsbad and Carlsbad Redevelopment Agency to the Motion of Carlsbad
Energy Center LLC to Admit Supplemental Documents into the Evidentiary Record

March 1, 2010

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STATE OF CALIFORNIA

Energy Resources Conservation
And Development Commission

In the Matter of:)
)
The Application for Certification for) Docket No/ 97-AFC-6
The Carlsbad Energy Center Project)
_____)

Response of the City of Carlsbad and the Carlsbad Redevelopment Agency
To the Motion of Carlsbad Energy Center LLC
To Admit Supplemental Documents into the Evidentiary Record

On February 18, 2010 Carlsbad Energy Center LLC (“Applicant”) filed a motion with this Committee requesting that certain documents be admitted into the record as they are “relevant to the Project’s compliance with local fire protection and worker safety laws. . .” The City of Carlsbad and the Carlsbad Redevelopment Agency (“City”) are concerned that the Applicant desires to have a sketch of the Poseidon Desalination project placed into the record without giving other parties any opportunity to question the veracity of the material or rebut their conclusions. Under most circumstances the City would object to the Applicant’s motion as an attempt to circumvent the Commission’s regulation regarding the admission of evidence. However, in this case we believe it is important for the Committee to view the description and also receive an explanation by the Fire Marshal now that he has had time to properly examine the documents.

Attached to this response is supplemental testimony of James Weigand, Fire Marshal for the City of Carlsbad, offered under oath, which contains the following:

1. Correction of the Applicant’s assertions,
2. A description of the use of the Poseidon Desalination facility as an example of a project that needed conditions above the minimum fire code standards,
3. Two examples of other facilities where the Carlsbad Fire Department required fire roads greater than the minimum required by the Fire Code, and
4. Because of the similarities between the CECP and the Kleen Energy Power Plant located in Connecticut, a brief review of the lesson’s unfortunately learned from that recent catastrophe that are pertinent to emergency response at the CECP.

In considering both the Poseidon and other examples as well as the lessons learned from the Kleen Energy facility, the City highlights Section 503.2.2 of the California Fire Code that states “the fire code official shall have the authority to require an increase in the minimum access widths where they are inadequate for fire or rescue operations”.

Supplemental Testimony of James Weigand,
Fire Marshal for the City of Carlsbad

I have reviewed the Applicant's submittal to admit supplemental documents into the Evidentiary Record, dated February 18, 2010. Outlined below is my response to that document. I am concerned that the Applicant has either misunderstood or mischaracterized the Carlsbad Fire Department's testimony regarding fire access and the fire departments discretion under California Fire Code Section 503.2.2.

Poseidon Example

As the record shows (CECP Evidentiary Hearing Transcript February 4, 2009 Page 101), during cross-examination, I agreed that some parts of emergency access for the proposed Poseidon desalination plant (Poseidon) may be less than 42 feet, but that the Carlsbad Fire Department (CFD) had maintained increased access areas surrounding the hazardous portions of the desalination plant – specifically the chemical storage area located on the eastern portion of the project (defined by the x-out area on the attached site map- Attachment 1). This increased access requirement is consistent with CFD's active involvement in building and maintaining safe and secure facilities to the greatest extent possible.

It is worth noting that the Poseidon plant has been in various stages of development and as the project gets closer to fruition, its plans become more refined. This reflects the changing nature of most development projects which is a primary reason why the Fire Department is not only consulted early in the development (planning) process but also throughout the building plan submission stage of the project. In most cases, the final project (as approved on the final building plans used for permits) can be notably different than the original planning concept plans.

However, Poseidon is a good example of the city working with a developer. Through numerous meetings the City has been able to identify those areas of the project that need additional fire access and other parts of the project that represent a more limited threat. The City's positive working relationship with Poseidon illustrates how CFD works elbow to elbow with a project developer to help ensure that the different needs are met. Poseidon's cooperation unfortunately stands in contrast to the lack of collaboration the Applicant has afforded the CFD as reflected by the one meeting (January 26, 2009) that representatives from NRG have had with the Fire Department during the course of this project.

In the February 18, 2010 letter, the Applicant tries to draw conclusions on the appropriate access for the proposed power plant (CECP) based on those required of the Poseidon plant. The letter fails to acknowledge that the two plants - CECP and Poseidon - are vastly different.

An example of the differences can be seen in the heights of the two projects. The CECP will have multiple structures (smokestacks) that are 140 feet tall whereas the Poseidon facility is only 35 feet tall. There are also distinct differences between the two

locations including the fact that Poseidon is an at-grade facility with ample room surrounding the plant to stage emergency response operations whereas the CECP will be located in a 25 foot depression with limited space for emergency operations.

Other Examples of Carlsbad Fire Department's Discretion

The purpose of CFD's discussion of Poseidon was to provide the Committee with an example of how the Fire Department takes an active role in reviewing project safety, and when appropriate, uses its discretion to require something beyond the minimum standards.

Since the Applicant has raised concerns about the accuracy of the Carlsbad Fire Department's testimony, CFD would like to submit other examples (Attachments 2 and 3) of fire safety requirements which exceed the minimum standards. These two additional examples reflect conditions required for the Life Technologies facility and the Dos Colinas Affordable Housing Complex. Again, to be clear, this information is being provided to the Committee as an example of the CFD's practice of requiring a project to do more than the minimum based on project circumstances (as allowed under California Fire Code Section 503.2.2), not to establish some type of correlation between those projects and the CECP.

In the example of Life Technologies (Attachment 2), due to grade differentials between adjacent pads and limited access from the rear of the facility, CFD worked with the owner of the project to obtain wider fire access roadways ranging from 30-foot wide in areas of full level access to 57-foot wide in the rear of the facility where our access is impeded by a raise in grade to the adjacent property. This increase in fire access road width insures that the fire department will have the room needed to work in case of an incident.

At Dos Colinas (Attachment 3), which is a proposed affordable housing project, City roadway design requirements allowed for only a single point of access. Due to this limited ingress and egress, the CFD required that the project increase the fire access roadway width from 20-feet to 28-feet. Had this project been able to provide a second point of roadway access, a 20-foot fire access roadway width would have been appropriate.

CFD's Conclusions Remain the Same on the CECP

Applicant's inability to distinguish Poseidon as just an example of CFD exercising its authority under the California Fire Code results in an erroneous conclusion that the CECP's proposed access widths are adequate. Furthermore, Applicant's rush to discredit CFD's request for additional access as it relates to the CECP fails to account for the specific attention CFD has paid to the CECP. This includes:

- CFD's analysis of CECP's site plan
- CFD's site visits of other power plants which were offered as comparable examples
- CFD's review of both Applicant's and the CEC staff's testimony.

Based on the above information, CFD has and continues to express its belief that an appropriate level of access for the proposed CECP is 50 feet in the "pit" and a ring road of 25 feet around the rim.

Lessons Learned from Kleen Energy

The recent regrettable tragedy at the Kleen Energy Plant in Connecticut just days after the testimony of the applicant which asserted that a fire department is essentially unnecessary for these types of facilities provides additional insights into the possible accidents that can happen at a natural gas power plant and the importance of the appropriate involvement of the local fire department.

Soon after the tragedy that occurred at the Kleen Energy Power Plant (Kleen), I contacted Fire Chief Ed Badamo from the South District of the Middletown Fire Department (February 22, 2010). Chief Badamo served as the fire service commander during the incident and has been involved in managing the emergency response, recovery and investigation for the explosion and fire. Below is a summary of that conversation.

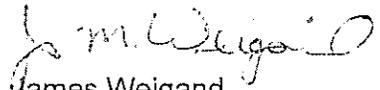
- *The Kleen Plant is constructed on top of a hill approximately 100-feet above the Connecticut River. The plant is located on the site of an old feldspar mine. The plant site required almost a full year of daily blasting in order to achieve the flat site where the plant is situated. This geologic condition resulted in 2/3 of the plant backing up against a 20-foot rock wall. The rock wall caused a second pressure wave when the pressure wave from the initial explosion was deflected off the rock wall and bounced back through the building.*
- *The fact that the plant is located 100-feet above river level helped reduce the amount damage to neighboring residential properties which are over 2,000-feet from the facility by projecting the blast wave above the homes. However, measurable amounts of damage did occur.*
- *The amounts of actual hazardous materials at the site significantly exceed what they had expected. For example, there were 489 compressed gas cylinders in the building at the time of the explosion some of which were seriously damaged. Of the damaged cylinders, 79 contained flammable gases such as acetylene.*
- *The ammonia storage tank at the plant had yet to be filled. That was fortunate since the force of the explosion caused a purlin from the building to be blown into the ammonia tank to a depth of 8-inches.*
- *The plant was designed with a fire access roadway around the outside of the facility with a central cross road. Because of debris from the explosion and vehicles and equipment parked in the roadway the fire department was only able to access the back of the building.*

- *During the fire and explosion incident the fire department was only able to place 2-Engine Companies into the actual plant area.*
- *The building was allowed to be constructed with a ceiling height of 110-feet which exceeded the reach ability of the fire department ladder truck company. This was allowed under a variance in the fire code requirements requested by the plant because of a fire sprinkler system that would prevent any fires. In this case, heat venting from the roof of the facility by a ladder truck was unnecessary because major portions of the roof were blown off.*
- *During the construction process the fire department was called to respond to the facility a number of times for rescue calls involving employees. Several of these cases involved rescues that required the fire department to use 110-foot lifts owned by the contractors working on the project to remove the patients.*
- *On work days during the construction process the actual occupancy of the job site was between 800-1000 workers. On the date of the explosion and fire occurred, there were 134 workers on site with no accountability system in place to identify who was there or where they were working. This significantly increased the workload for the fire department as they were required to continue to attempt to locate possible additional victims in the building debris until everyone was accounted for.*
- *The fire department response for the explosion and fire included 11-Engine Companies, 4-Ladder Companies and many Ambulances. Numerous Chief Officers were needed to assist in the large incident management.*
- *The fire hydrant system at the facility was pressurized by jockey pumps and fire pumps. During the fire and explosion the system failed because the electrical power had to be turned off to allow for firefighting operations. With no electrical power, the fire pumps failed. After the pumps were able to be brought back on-line, the fire department found that a number of underground control valves on the private system had been left in the closed position preventing water from reaching some hydrants.*
- *Middletown is current investigating the incident and they have offered to share their findings with Carlsbad.*

Conclusion

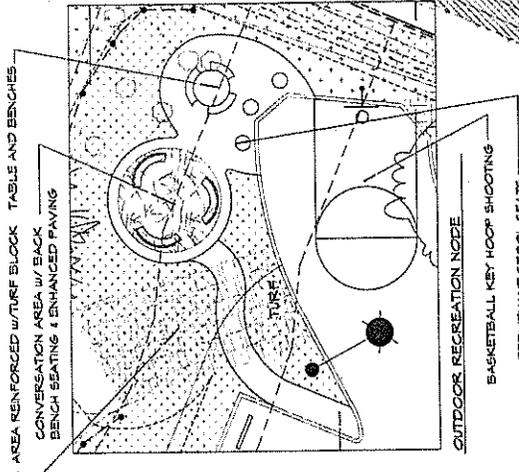
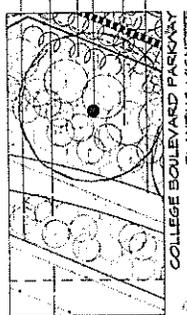
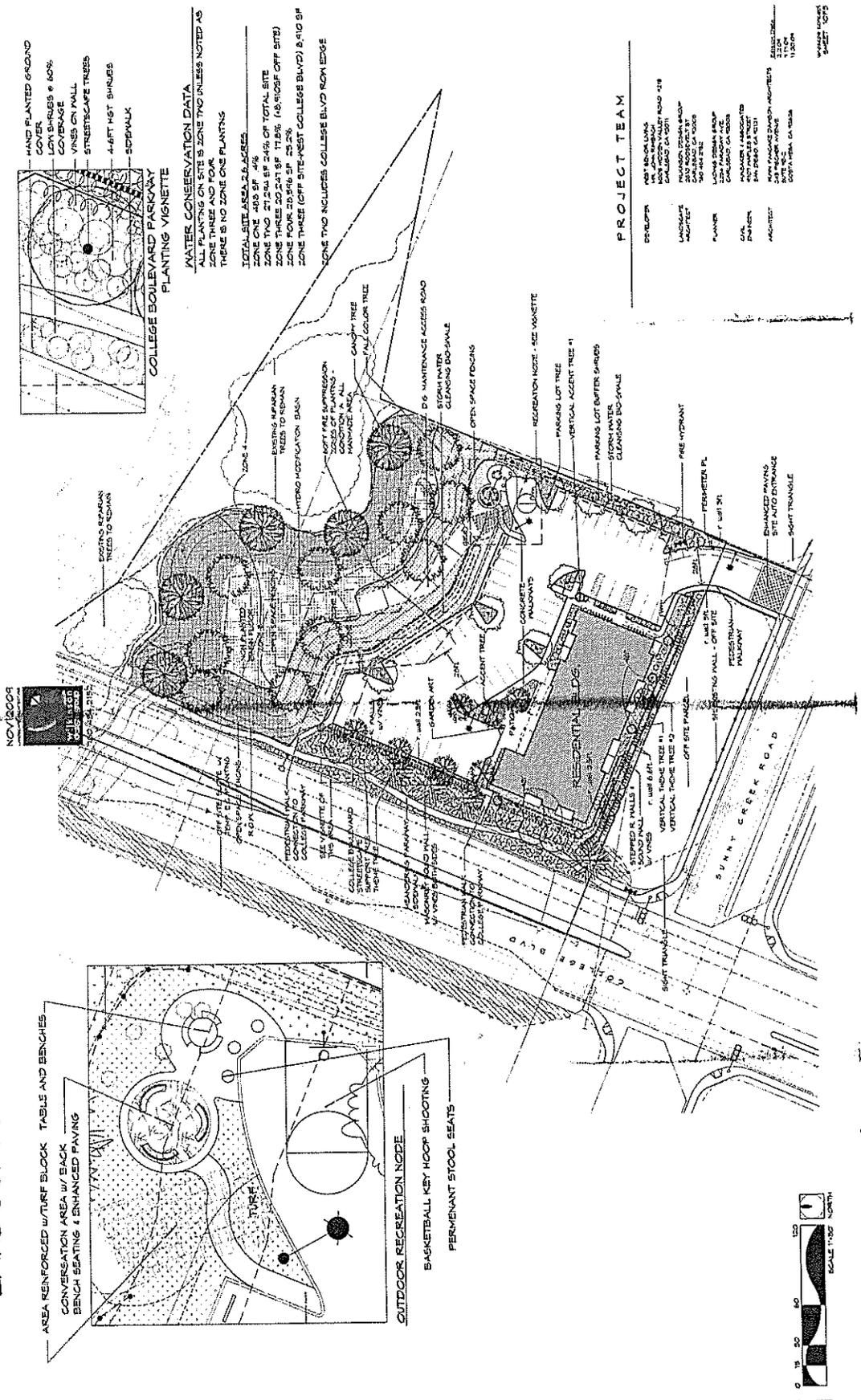
In summary, the City would urge the Commission appreciate the reality of serious fire and safety accidents at modern power plants, not to lose focus on the CECP's current lack of adequate access, and recognize the merits and necessity of CFD's request as it relates to a power plant which is located in a 25 foot depression bordered on three sides by a lagoon, a major freeway, the region's primary rail line, and has residential neighborhoods located within about 1,800-feet of the proposed site.

I swear under oath that the above is true and correct to the best of my knowledge.

A handwritten signature in cursive script, appearing to read "James Weigand".

James Weigand
Fire Marshal, City of Carlsbad

CARLESEAD CA DOS COLINAS - Affordable Housing LANDSCAPE CONCEPT FIRE SUPPRESSION & WATER CONSERVATION PLAN



WATER CONSERVATION DATA
 ALL PLANTING IS ZONE TWO UNLESS NOTED AS ZONE THREE AND FOUR
 THERE IS NO ZONE ONE PLANTING

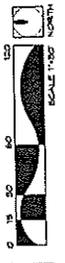
TOTAL SITE AREA 2.6 ACRES
 ZONE ONE 488 SF 4%

WATER CONSERVATION DATA
 ZONE TWO 27,204 SF 24% OF TOTAL SITE
 ZONE THREE 20,294 SF 18% (10,100 SF OFF SITE)
 ZONE FOUR 10,100 SF 9%
 ZONE FIVE (OFF SITE WEST COLLEGE BLVD) 8,910 SF 8%

ZONE TWO INCLUDES COLLEGE BLVD ROW EDGE

PROJECT TEAM

CONCEPT	PORT BOUNDARIES 1001 JAMES BLVD SUNNYVALE, CA 94089
LANDSCAPE ARCHITECT	PLANNING DESIGN GROUP 1001 JAMES BLVD SUNNYVALE, CA 94089
PLANNER	1001 JAMES BLVD SUNNYVALE, CA 94089
CIVIL ENGINEER	1001 JAMES BLVD SUNNYVALE, CA 94089
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DECLARATION OF SERVICE

I, Robin Nuschy, declare that on March 1, 2010, I served and filed copies of the attached, Admit Supplemental Documents into the Evidentiary Record. 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]**. 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
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I declare under penalty of perjury that the foregoing is true and correct.





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APPLICATION FOR CERTIFICATION
FOR THE **CARLSBAD ENERGY
CENTER PROJECT**

Docket No. 07-AFC-6
PROOF OF SERVICE
(Revised 2/16/2010)

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