UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

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July 18, 2011

Mr. George L. Piantka, P.E.
NRG Energy Inc. – West Region
5790 Fleet Street, Suite 200
Carlsbad, California 92008

Subject: New PSD Applicability Determination Analysis for the Carlsbad Energy Center Power Project

Dear Mr. Piantka:

This letter is to inform you that the United Stated Environmental Protection Agency (EPA) is withdrawing as moot the Prevention of Significant Deterioration (PSD) applicability determination for the Carlsbad Energy Center Project (CECP) previously issued on October 13, 2010 and January 11, 2011. The analysis contained in that applicability determination was based on a projected actual construction date of June 30, 2011, and clearly stated that if "the project has not begun construction by this time, a new [applicability] analysis and determination will be required." *See* PSD Applicability Analysis for the Carlsbad Energy Center Project at 2. In this case, the California Energy Commission did not issue the necessary approvals that would allow NRG to start construction by June 30, 2011, so NRG did not have authority to begin actual construction on the CECP by that date.

Accordingly, the prior applicability determination is no longer valid. In withdrawing this PSD applicability determination as moot, we also note that we have concluded that the analysis contained in it was made in error. As such, neither the overall determination nor the rationale and analysis contained therein can be relied upon to undertake actions related to the CECP or any other facility. In revoking this particular analysis, EPA emphasizes that there still may be specific permitting circumstances in which EPA may use the discretion provided by 40 CFR §52.21 (b)(48)(i) to select a different period for determining the baseline actual emissions, but the use of such discretion will be based on the particular facts of the permitting situation under consideration.[1]

[1] EPA also notes that the discretion to consider a different period for calculating baseline actual emissions for determining PSD applicability is limited to applicability determinations performed by the Agency and other approved permitting authorities and may not be invoked independently by emission sources and/or permit applicants. *See* 40 CFR §52.21 (b)(48)(i) (limiting use of a different time period to the *Administrator's* determination "that it is more representative of normal source operation"); 40 CFR §51.166 (b)(48)(i) (providing same discretion to approved permitting authorities).

EPA is committed to working with NRG to complete a new applicability determination for the CECP. If such a determination is requested, please be aware that EPA will also consider PSD applicability for greenhouse gases that might be emitted from the project. *See* 40 CFR §52.21 (b)(48)(v)(b); 75 Fed. Reg. 31514, 31527 (June 3, 2010). If you have any questions, please contact Shaheerah Kelly of the Air Permits Office at (415) 947-4156.

Sincerely,

Deborah Jordan
Director, Air Division

cc: Robert Kard, San Diego Air Pollution Control District
Steven Moore, San Diego Air Pollution Control District
Tom Andrews, Sierra Research
Mike Monasmith, California Energy Commission
Will Walters, Aspen Environmental Group
Joe Garuba, City of Carlsbad