DOCKET
07-AFC-6
DATE Sept 23 2011
RECD. Sept 23 2011

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Terramar's Comments Requested at the Sept 13 Carlsbad Committee Conference Regarding the Need for Conditions LAND-2 and LAND-3, (relating to the demolition and removal of the existing Encina power plant) in the CECP. Submitted 9/23/2011

The Encina Power Station is located in the South Coast Carlsbad Redevelopment Plan Area. The condition of blight at the Encina site has been determined by the Redevelopment Agency, an authorized California state agency.

> *The Redevelopment Agency is responsible for enforcing these statutory duties in its administration of the SCCRP. In doing so, the Redevelopment Agency determined that the existing power plant constitutes a blighting condition on the community. As explained in connection with the adoption of the SCCRP, the existing power plant has surpassed its useful life, there is no plan for its removal, the adjoining residential neighborhoods, beaches, and lagoon are subjected to air emissions and aesthetic impacts, as "the 400-foot tall facility is clearly visible from single family homes, a public park, and Carlsbad State Beach," and hazardous materials have been used at the plant. (Ex. 1, pp. B-4, B-6). The determinations of blight are final and conclusive and are not subject to challenge in this proceeding. (Redevelopment Agency of the City and County of San Francisco v. Del-Camp Investments, Inc. (1974) 38 Cal.App.3d 836, 841.)*
> CITY OF CARLSBAD AND CARLSBAD REDEVELOPMENT AGENCY'S OPENING BRIEF IN OPPOSITION TO CECP & ON REQUESTED BRIEFING TOPICS August 18, 2010 Page 4

Retiring Encina Units 1-3 and setting "in motion the actions likely to facilitate the eventual retirement of Units 4 and 5 at Encina" are basic objectives of the development of the Carlsbad Energy Center Project (CECP) as stated in the California Energy Commission's (CEC) Presiding Member's Proposed Decision (PMPD).

These objectives further and increase the current condition of blight at Encina Power Plant. The Encina Power Station cannot change its use without a Redevelopment Permit. The Redevelopment Agency has declared Encina as a blighted condition. Therefore, Land Use 2 and Land Use 3 (the demolition and removal of Encina upon shutdown of units 4 and 5) are the only path available to remedy the condition of blight increased and furthered with the shutdown of Units 1-3 at the Encina Power Station by CECP.

> *The AFC identified the basic objectives for the development of the proposed power project as follows:…*
> *• Facilitates the retirement of existing Units 1, 2 and 3 at Encina Power Station consistent with the following City of Carlsbad's land use programs (see Section 5.6, Land Use, for a completed discussion of the various land use programs) and to set in motion actions that are likely to facilitate the eventual retirement of Units 4 and 5 at the Encina Power Station.*
> Presiding Member's Proposed Decision, Project Description pps.4-5

The increase and furtherance of a blighted condition is contrary to public health and safety as explained in the California Health and Safety Code.

> *33030. (a) It is found and declared that there exist in many communities blighted areas that constitute physical and economic liabilities, requiring redevelopment in the interest of the health, safety, and general welfare of the people of these communities and of the state.*
>
> *33035. It is further found and declared that:*
> *(a) The existence of blighted areas characterized by any or all of such conditions constitutes a serious and growing menace which is condemned as injurious and inimical to the public health, safety, and welfare of the people of the communities in which they exist and of the people of the State.*
> *(b) Such blighted areas present difficulties and handicaps which are beyond remedy and control solely by regulatory processses in the exercise of police power.*
> *(c) They contribute substantially and increasingly to the problems of, and necessitate excessive and disproportionate expenditures for, crime prevention, correction, prosecution, and punishment, the treatment of juvenile delinquency, the preservation of the public health and safety, and the maintaining of adequate police, fire, and accident protection and other public services and facilities.*
> *(d) This menace is becoming increasingly direct and substantial in its significance and effect.*
> *(e) The benefits which will result from the remedying of such conditions and the redevelopment of blighted areas will accrue to all the inhabitants and property owners of the communities in which they exist.*
>
> *33037. For these reasons it is declared to be the policy of the State:*
> *(a) To protect and promote the sound development and redevelopment of blighted areas and the general welfare of the inhabitants of the communities in which they exist by remedying such injurious conditions through the employment of all appropriate means.*

The Warren Alquist Act binds the CEC to safeguard public health and safety. Public health and safety must be supported in any CEC decision. The CEC cannot make a decision that will further and increase blight as this will not safeguard public health and safety; therefore Land Use 2 and Land Use 3 (demolition and removal of Encina) are necessary for the project to comply with the law.

> ***§ 25216.3. Design and operational standards; compilation; adoption; compliance***
> *(a) The commission shall compile relevant local, regional, state, and federal land use, public safety, environmental, and other standards to be met in designing, siting, and operating facilities in the state; except as provided in subdivision (d) of Section 25402, adopt standards, except for air and water quality, to be met* ***in designing or operating facilities to safeguard public health and safety****, which may be different from or more stringent than those adopted by local, regional, or other state agencies, or by any federal agency if*

permitted by federal law; and monitor compliance and ensure that all facilities are operated in accordance with this division.

§ 25511. Safety and reliability factors; information required; analysis; findings …*The commission shall determine the adequacy of measures proposed by the applicant to* ***protect public health and safety,*** *and shall include its findings in the final report required by Section 25514*

§ 25523. Written decision; contents
The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:
(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and ***assure public health and safety.***

The CEC is also bound by ***§ 25525*** and "may not certify a facility …that…does not conform with applicable state, local, or regional standards, ordinances or laws unless the CEC determines that the facility is required for public convenience and necessity".

§ 25525. Conformance with standards, ordinances and laws; exception
The commission may not certify a facility contained in the application when it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the commission determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the commission shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The commission may not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523

As Encina is located in the South Carlsbad Coastal Redevelopment Plan (SCCRP) it is governed by the LORS of Community Redevelopment Law. The CEC is required to make an override if the proposed CECP does not comply with the LORS of the SCCRP: otherwise CEC must require the CECP to act in accordance with Community Redevelopment Law and require the project to comply with all SCCRP's mandates.

The CECP does not comply with the Community Redevelopment Law, Health and Safety Code section 33000, et seq. (CRL), and is inconsistent with important state policies regarding the elimination of blight which the CRL is intended to achieve. *The proposed site of the CECP is located within the boundaries of the South Carlsbad Coastal Redevelopment Plan (SCCRP). The Redevelopment Agency serves as an administrative arm of the State in carrying out the provisions of state redevelopment law and the SCCRP in the plan area. The FSA mistakenly considered the SCCRP to be a local LORS matter, disregarding the importance of the state redevelopment law and policies. The CECP has refused to comply with the requirements for permission to locate in the SCCRP area. Nonetheless, the evidence shows the CECP would not*

meet the requirement to serve an "extraordinary public purpose" and would increase, rather than eliminate, blight in the redevelopment area by introducing another large, long-term industrial facility in a sensitive coastal location, with no plan for removing and redeveloping the site of the obsolete power plant next door. The law and the evidence which support this ground for denying the CECP are discussed in detail below in sections II.A.3 and II.E of this brief.
CITY OF CARLSBAD AND CARLSBAD REDEVELOPMENT AGENCY'S OPENING BRIEF IN OPPOSITION TO CECP & ON REQUESTED BRIEFING TOPICS August 18, 2010, Page 4

As an override has not been made by CEC; the CECP must comply with SCCRP conditions:

- Demonstrate that it serves an extraordinary public purpose
- Submit a precise development plan setting forth project development standards
- Obtain a Redevelopment Permit.

To address these blighting conditions, the SCCRP contains appropriate planning and continuing land use and construction policies with which a project that proposes to locate in the redevelopment area must comply. Among other things, SCCRP Section 601 requires a proposed project (1) to demonstrate that it serves an extraordinary public purpose, (2) to submit a precise development plan which sets forth the development standards for the project, and (3) to obtain a Redevelopment Permit. (Exhibit 2.) These requirements effectuate state redevelopment law which requires the SCCRP to contain adequate safeguards to ensure that a proposed project will carry out the goals and objectives of the redevelopment plan. (Health & Saf. §§ 33336, 33338.)
Although NRG has made no attempt to comply with the planning, land-use and construction requirements of the SCCRP, the FSA treated the CECP's non-compliance as a local matter relating to "the City's interpretation of its complex and layered land use ordinances." (FSA, p. 1-9.) The FSA's truncated consideration of the SCCRP's requirements as local, rather than state, LORS is wrong as a matter of law. The FSA's failure to evaluate the CECP's non-compliance with the SCCRP, with the same deference afforded other state LORS, wrongfully disregards the important state policies embodied in the CRL and effectuated through the SCCRP. (20 Cal. Code Reg. § 1744(e).)
The FSA's failure to adequately analyze the CECP's non-compliance with the SCCRP may preclude approval of the project by the Commission. Pursuant to title 20 of the California Code of Regulations, section 1755(b), a project "shall not" be certified unless "the commission's findings pursuant to subsections (e), (f), and (k) of section 1752 are all in the affirmative." Section 1752(k) requires the Commission to determine if the noncompliance with the LORS "can be corrected or eliminated." The FSA does not provide a basis on which such findings can be made because the FSA incorrectly treated the SCCRP as a local LORS matter and disregarded the CECP's undisputed non-compliance with the SCCRP's requirements. Accordingly, the CECP cannot be approved without an override of its non-compliance with state redevelopment LORS.

CITY OF CARLSBAD AND CARLSBAD REDEVELOPMENT AGENCY'S OPENING BRIEF IN OPPOSITION TO CECP & ON REQUESTED BRIEFING TOPICS August 18, 2010 Page 63-64

The proposed CECP has accomplished none of three SCCRP requirements supported by Community Redevelopment Law.

It appears to Terramar that Land 2 and Land 3 are a necessary beginning in the direction of compliance with the Redevelopment LORS and the requirements of the CEC to protect the public health and safety. As Terramar is not an expert in Redevelopment LORS; Terramar supports the Carlsbad Redevelopment Agency's position on this topic.

One of the conditions of the SCCRP is for the project to demonstrate extraordinary public purpose. CEC staff listed the following as an extraordinary benefit of CECP project:

> *Initiation of steps that could lead to the retirement of all five EPS units, ultimately resulting in the redevelopment of over nearly 70 acres of existing industrial property west of the railroad tracks into mixed commercial uses that will benefit the city.*
> AUG. 12, 2010 ENERGY COMMISSION STAFF'S SUPPLEMENTAL TESTIMONY page 11

CEC staff failed to recognize that blight is furthered and increased at Encina with the required shutdown of Units 1-3. The shutdown of Units 1-3 is required by the Final Decision of Compliance from the San Diego Air Pollution Control District. The end result of the shutdown of Encina Units is the furtherance and increase of blight, as testified by Mr. Kane (Hearings Feb. 1, 2010 p. 99), legal redevelopment expert for the City of Carlsbad. Blight is the "step" created by the Encina shutdown: not redevelopment. Furthering and increasing blight is in direct contrast to the responsibility of the CEC to protect the public health and safety of the community from the dangers of blight and is in direct conflict with purpose of the Redevelopment Agency.

Additional extraordinary benefits CEC staff listed in their supplemental testimony p. 11 include:

> (1) *Elimination of hundreds of millions of gallons of once-through-cooling (OTC) seawater currently permitted for use by EPS Units 1-3;*
> (2) *Efficient and reliable in-basin generation necessary for the integration of increasing amounts of renewable generation required by the state's 33% Renewable Portfolio Standard;*
> (3) *Completion of the City of Carlsbad's "Rail Trail" network the CECP will provide;*
> (4) *Tens of millions of dollars in socioeconomic benefits conveyed to the local and regional economy through the construction and operation of the CECP;*

Terramar briefly refutes the other four CECP extraordinary benefits listed by CEC staff. Terramar's arguments support the assertion that the CECP project offers no benefits outside of Land Use 2 and Land Use 3.

- Argument refuting benefit 1 above: Use of the Encina Power Station has diminished significantly. Based on supporting information received by email from Dr. Steve Moore from the SDAPCD (and docketed with these comments), Units 1-3 ran approximately 875, 294 and 747 hours in 2010 based on Encina's emission inventory submittals. Usage of Units 1-3 is minimal at best. The extraordinary benefit of "elimination hundreds of millions of gallons of once through-cooling (OTC) seawater" is severely inflated. The benefit is based on the maximum allowable OTC seawater and not on actual usage. CEC docketed memo dated 5/28/10 Post-Evidentiary Hearing Developments for Carlsbad Energy Center in which is states,
    - *"**Communities for a Better Environment v. South Coast Air Quality Management District (48 Cal.4th 310 [March 15, 2010])** This recent decision held that the "analytical baseline" for CEQA analysis to determine significance of environmental effects requires the consideration of "existing physical conditions" at the time of the analysis, rather than permitted maximum capacity under prior equipment permits. (Slip Opinion, pp. 2-3.)"*
- Argument refuting benefit 2 above: The three SDG&E power purchase agreements (that are listed in the order for the next CECP hearing with the Carlsbad Committee) will fulfill the need for efficient and reliable in-basin generation to support the integration of increasing amounts of renewable generation.
- Argument refuting benefit 3 above: As of yet, there is no offered or approved location for the rail trail network in the Encina site.

  LAND-1 *which requires agreement upon and dedication of a suitable trail location between the project owner and City; if they can not agree an independent appraiser will set the amount of a financial contribution from the project owner to the City for the purpose of establishing a trail segment. (Exs. 111; 113; 200, pp. 4.5-16 – 4.5-17.)* PMPD page 10 Local Impact Assessment
- Argument refuting benefit 4 above: The CECP offers no long term employment for the area; only short term employment and many of those jobs are listed as experts that may be hired from any locations making the local benefit questionable at best and certainly not extraordinary. Only if and when the CEC works with the SCCRP and complies with this sister state agency will economic benefit be realized.

Land Use 2 and 3 exist as the first offer of tangible benefit for the community. The Applicant was the party that proposed the conditions and three times they docketed their support of these two conditions.

Applicants Docketed Material Concerning Land 2 and 3
LAND USE

During the May 19-20 hearing, Applicant proposed a condition of certification related to the permanent shutdown of Units 4 and 5. Subsequent to the hearing, however, Applicant met with officials from the City of Carlsbad and the Carlsbad Redevelopment Agency to discuss this condition and other concessions. To that end, on June 3, 2011, Applicant docketed two proposed conditions of certification (LAND-2 and LAND-3), which it believes the City will support.

June 8, 2011 Re: Carlsbad Energy Center Project (07-AFC-6)
Applicant's Comments on the Presiding Member's Proposed Decision

Applicant is satisfied that the PMPD, together with the Errata, provides the Commission with a solid environmental analysis and all conditions of certification necessary to ensure CECP is built and operated in compliance with all laws, ordinances, regulations, and standards. Applicant looks forward to the June 30, 2011 Special Meeting at which the Commission is well-equipped to provide a final approval for the CECP AFC.

June 27, 2011Applicant's Comments to the Errata to the Presiding Member's Proposed Decision for the Carlsbad Energy Center Project (07-AFC-6)

On June 27, 2011, Applicant submitted a very brief letter stating its support of the Errata to the PMPD for the CECP. After further consideration, Applicant wishes to supplement its July 27, 2011 comments. First, Applicant would like to reiterate its support of the PMPD and Errata. Applicant is satisfied that the PMPD, together with the Errata, provides the Commission with a solid environmental analysis and all conditions of certification necessary to ensure CECP is built and operated in compliance with all laws, ordinances, regulations, and standards.

June 28, 2011 Applicant's Supplemental Comments to the Errata to the Presiding Member's Proposed Decision (07-AFC-6)

In addition, the Warren Alquist Act **§ 25003** states very clearly that local plans for land use and economic development must be considered. By eliminating Land Use 2 and 3 in the conditions of CECP, local plans for land use and economic development, as set by the California Community Redevelopment Law, are not only avoided but public hazard and blight are continued and furthered in the Encina site.

> **§ 25003. Legislative finding; consideration of state, regional and local plans**
> *The Legislature further finds and declares that in planning for future electrical generating and related transmission facilities state, regional, and local plans for land use, urban expansion, transportation systems, environmental protection, and economic development should be considered.*

Legislative mandate clearly states that local plans for land use must be considered and the CECP must address that in the certification process. Land Use 2 and 3 are needed to consider local plans for land use.

Land Use 2 and 3 are also needed to satisfy section **§ 25529** of the Warren Alquist Act. As of this point the Applicant has not dedicated any public use zone. In fact, at this point the Applicant has stood in the way of the Coastal Rail Trail (Land Use 1) continuing through their property.

> **§ 25529. Public use area; maintenance by applicant or dedication to local agency or state**
> *When a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the commission shall require, as a condition of certification of any facility contained in the application, that an area*

be established for public use, as determined by the commission. Lands within such area shall be acquired and maintained by the applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The applicant may dedicate such public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the applicant may dedicate such zone to the state. The commission shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

The Energy Commission Staff's Supplemental Testimony regarding Land 2 and Land 3 describes negative environmental issues created by the tear down and removal of Encina. Encina must be torn down to protect the public health safety and comply with Redevelopment Law. It cannot sit on the coastline forever. If CEC feels it is too dangerous to tear down a power plant then a new plant (the CECP) should never be built.

Terramar appreciates the opportunity to submit comments regarding the need for Land Use Conditions 2 and 3 to remain in the project. Keeping Land Use 2 and 3 are necessary to comply with LORS. We look forward to the Carlsbad hearing and the opportunity to submit testimony regarding all of the topics listed in the Revised Committee Scheduling Order including the environmental impacts of Land 2 and Land 3, as that testimony was not requested as part of these comments.

"On June 29, 2011, the Center for Biological Diversity filed a New Motion for Evidentiary Hearing regarding greenhouse gas issues, cumulative impacts and alternatives analysis including all issues related to SDG&E's application for approval of Power Purchase Agreements with three power plant projects. We GRANT the motion with respect to evaluation of the impact of the three new projects on our cumulative impacts and alternatives analysis. In addition, we REMAND the matter to the Carlsbad AFC Committee to take evidence and revise the PMPD as needed on those issues and in addition 1) issues associated with Conditions Land-2 and Land-3 and their environmental impacts, and 2) the grid reliability issues raised by the comments from CAISO during the June 30, 2011, Business Meeting. The Committee may, in its discretion, consider other issues, with or without additional hearings."

Regarding future scheduling for the project, Terramar has no special requests. We do hope the Commission is able to work around the scheduling needs of Will Rostov from the Center for Biological Diversity. We also feel the Evidentiary Hearing should still held in Carlsbad to allow continued public participation.

As these comments are not based on a motion, Terramar is not sure how the Committee will proceed. It is important for the Committee to be informed that the Applicant declared on local television and in the local paper that the reason they withdrew Land Use 2 and Land Use 3 was because the City of Carlsbad continued their opposition of the project. (Please see docketed copy of the North County times article dated September 20, 2011.)

Print

From: Moore, Steve (Steve.Moore@sdcounty.ca.gov)
To: siekmann1@att.net;
Date: Thu, September 1, 2011 5:31:22 PM
Cc:
Subject: RE: Carlsbad Energy Center Project (07-AFC-6)-Applicant's Motion

Kerry,

Based on Encina's emission inventory submittals, the plant had the following operating hours in 2008, 2009, and 2010:

Encina Power Plant Operating
Times, hours

Unit	2008	2009	2010
1	301	1330	875
2	1630	1085	294
3	1765	1872	747
4	3902	3568	956
5	6627	4536	2305

Let me know if you have anymore questions.

Thanks.
Steven Moore
Senior Air Pollution Control Engineer
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Celebrating 50 years of air quality progress!

From: Kerry Siekmann [mailto:siekmann1@att.net]
Sent: Wednesday, August 31, 2011 11:34 AM
To: Moore, Steve
Subject: Re: Carlsbad Energy Center Project (07-AFC-6)-Applicant's Motion

Steve
Thanks for your reply. I am going to a meeting at CEC in Sacramento on Sept. 13. Before then I would like to know about how much Encina ran in '08, '09, '10. I know you said by looking at the emissions I could tell about how much they were running, but I am not sure how to do that. Could you offer me some guidance?
Kerry Siekmann

The North County Times - Californian

CARLSBAD: City urges state panel to force removal of old power plant

By BARBARA HENRY bhenry@nctimes.com | Posted: Tuesday, September 20, 2011 3:00 pm

Carlsbad city officials are asking the state to reject a new power plant planned just east of the aging Encina Power Station or force the company behind the proposal to keep its promise to tear down the seaside Encina station once the new plant is built.

The company, NRG Energy, asked the state last week to be released from an agreement it made with Carlsbad earlier this year to dismantle the hulking power station, near the corner of Carlsbad Boulevard and Cannon Road.

If NRG is allowed to renege on that commitment, then Carlsbad isn't going to get any benefit out of the company's much-discussed plans for the new power plant, city officials said Tuesday. The city has strongly opposed that project.

Their comments came just before the City Council, in its role as the city's Housing and Redevelopment Commission, unanimously backed a resolution stating the proposed power plant doesn't meet the city's property redevelopment standards and shouldn't get permits.

Carlsbad doesn't have permit authority over large power plant projects. The authority rests with the state Energy Commission.

In an email to city officials last week announcing NRG's request, an official with the Energy Commission wrote that the company argued that "demolition and removal of the existing Encina power plant would make it difficult, due to financial considerations to build" the new project.

Kerry Siekmann of the Terramar Association, a homeowners group that represents the coastal homes near the Encina plant, told the City Council that she attended the state hearing and was shocked by NRG's request.

"Basically, what happened to us was a full-on ambush," she told the council Tuesday.

Reached via telephone later in the afternoon, NRG spokeswoman Lori Neumann said her company made its request because Carlsbad hasn't honored its part of the agreement. As part of the deal, Carlsbad agreed that it would stop opposing the project and work with the company on demolition plans, she said.

"The city has not ceased its opposition and has not engaged in ... discussions" about removing the old plant, she said.

Carlsbad officials and NRG representatives have been sparring for several years over the company's proposal to put a new power plant on the eastern end of the Encina site between the railroad tracks and Interstate 5.

City officials have said that there is no need to put an air-cooled plant on prime coastal and lagoon property. They want to see the Encina site redeveloped, and have suggested having tourist services, shops and housing in the area.

NRG officials have said that they want to free up the front end of their property for redevelopment, but argue that the back end near the railroad tracks is a perfect spot for power plant development.

After NRG notified the state that it would like to get out of the plant-removal agreement, the Energy Commission told Carlsbad officials that they had until this Friday to submit comments on the request. Because of that quick deadline, Carlsbad added the special meeting onto the normal monthly workshop session, city officials said Tuesday.

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
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(Revised 9/19/2011)

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DECLARATION OF SERVICE

I, Kerry Siekmann, declare that on, Sept. 23, 2011, I served and filed copies of the attached Lemamar Comments, dated Sept. 23, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[www.energy.ca.gov/sitingcases/carlsbad/index.html]**.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

✓ Served electronically to all e-mail addresses on the Proof of Service list;

✓ Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail service preferred."

AND

For filing with the Docket Unit at the Energy Commission:

✓ by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); ***OR***

____ by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 08-AFC-11
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

____ Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Kerry Siekmann
Maggie Read
Hearing Adviser's Office

*indicates change