

**DOCKET**

**07-AFC-6**

DATE FEB 09 2012

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State of California  
Energy Resources Conservation and  
Development Commission

In the Matter of: )  
)  
The Application for Certification of the ) Docket No.  
Carlsbad Energy Center Project ) 07-AFC-6

Comments from Intervener Terramar Regarding CEC Staff's Docketed  
Comments entitled, "Staff Responses to Comments Made by the Center for  
Biological Diversity Pertaining to Staff's Greenhouse Gas Emissions  
Analysis"

Kerry Siekmann  
Catherine Miller  
5239 El Arbol Dr.  
Carlsbad, Ca. 92008  
760-438-5611

February 9, 2012

Terramar was shocked to see the "Staff Responses to Comments Made by the Center for  
Biological Diversity Pertaining to Staff's Greenhouse Gas Emissions Analysis" docketed  
February 2, 2012.

The CECP presiding member had not directed staff to prepare such a document. So this  
appears to be a violation of § 1723.5.

**§ 1723.5. Presentation of Evidence; Burdens of Producing Evidence; Burdens  
of Proof. (a)6:**

(b) The staff shall present its independent assessment of the need for the facilities  
and of the adequacy of the measures proposed by the applicant to protect  
environmental quality and to protect public health and safety. The staff may also  
present evidence on any other matter relevant to the proceeding and shall present  
evidence on such matters and issues as the presiding member directs.

Terramar wonders if CEC staff has lost their required independent status by deciding to  
file this unrequested Response document. Title 20 makes it very clear to Terramar that  
CEC staff is required to remain independent in their assessments and evaluations of  
power plant applications.

**§1712.5. Staff as an Independent Party:**

In carrying out its duties pursuant to this chapter, the staff of the commission shall be an independent party to all notice, application, and exemption proceedings.

The CECP Presiding Member did not request Reply Briefs or Responses; in fact, all parties were limited to 10 pages in our Comments after the December 12, 2011 hearing. This document should be stricken from the record. But, as Biological Diversity has pointed out, the damage has been done. CEC staff should know their rules better than any of the parties as they define staff's actions each and every day. Therefore, Terramar supports Biological Diversity in their claim that they should be able to file a Response to staff's inappropriate document.

Instead of preparing what appears to be a "reply brief" in opposition to a single intervener, CEC staff should have been docketing the CAISO draft report that appeared on the CAISO website January 31, 2012. The 296 slide presentation from CAISO was a significant part of the December 12, 2011 hearing and it is surprising that CEC staff has not docketed the underlying report.

Terramar wonders if CEC staff did not docket this report because they wish to avoid inserting into the record that CAISO states on pages 218-219:

*This long-term assessment is preliminary because the official long-term supply and demand outlook is typically carried out under the CPUC Long-Term Procurement Plan (LTPP) process with significant participation from various stakeholders. The ISO assessment that is described here is preliminary, and would serve as an indication of potential trends or areas of concerns*  
Page 218-219

CAISO makes it very clear that this report is preliminary and cannot yet be relied upon for demand outlook.

Staff should understand how preliminary the CAISO report is as they are required to use the latest adopted strategic plan when assessing the need for transmission corridors per Title 20, Chapter 6, Article 2, § 2329 CEC staff is required to use the latest adopted strategic plan when assessing proposed transmission corridors.

**§ 2329. Preparation of Environmental Report, Need Assessment, and Staff's Role.**

(b) The staff shall also be responsible for independently assessing the need for the proposed transmission corridor and whether it conforms with the latest adopted strategic plan.

Terramar can only hope that CEC staff will step back and look at all the information regarding the CECP with independent eyes in the future.

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