

California Energy Commission
DOCKETED
07-AFC-6
TN # 66035
Jun 29 2012

State of California
California Energy Commission

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

Intervener Terramar
Petition for Reconsideration

June 27, 2012

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State of California
California Energy Commission

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The California Energy Commission issued its order to certify the Carlsbad Energy Center Project on June 1, 2012. The Commission is well aware that Terramar still strongly opposes the certification of the CECP and we have clearly docketed our concerns for the past four years.

Of greatest concern to Terramar is that the final decision fails in its protection of “public health and safety” of our local citizens. The Commission has approved the project despite the fact that the record is deficient on procedures for providing emergency services and fire safety during construction and operation.

The Final Commission Decision frequently refers to the Carlsbad Fire Department as local fire protection services, as noted below.

*The project will rely upon both on-site and local fire protection services. The onsite fire protection system provides the first line of defense for such occurrences. (Id.) The Construction Fire Prevention Plan (Condition **WORKER SAFETY-1**) must address and detail measures to minimize the likelihood of fires during construction. These measures include the placement of portable fire extinguishers, safety procedures, and training. Ex. 222, pp. 4.14-7 – 4.14-8.) Local fire support services are under the Carlsbad Fire Department’s (CFD) jurisdiction. There are a total of six fire stations within the City of Carlsbad. The closest station to the CECP site would be Station #1, located at 1275 Carlsbad Village Drive, approximately 1.7 miles away. The total response time from the moment a call is made to the point of arrival at the site would be approximately six minutes. The next closest station would be Station #4, located at 6885 Batiqitos Drive, about 3.7 miles away, which would respond within seven to eight minutes.²*
Worker Safety, 6.4-3

While it is possible that during a major earthquake (or other major event) response to the power plant could impact the Carlsbad Fire Department, the probability of that happening is less than significant. Therefore, this project would not have a significant incremental or cumulative impact on the department’s ability to respond to a fire or other emergency.
Worker Safety, 6.4-9

FINDINGS OF FACT

Based on the evidence, and assuming implementation of the Conditions of

*Certification below, the Commission makes the following findings:
5. The Carlsbad Fire Department will provide fire protection and emergency response services to the project and will be able to respond to the site within an acceptable time.*

Worker Safety, 6.4-13

The Carlsbad Fire Department's Stations #1 and #4 will be the first responders for hazardous materials incidents. The San Diego City and County Department of Environmental Health, Hazardous Materials Response Team (DEH-HIRT) will respond to hazardous material incidents. This unit is capable of handling any hazardous materials incident at the CECP. Its response time is one hour. (Ex. 200, p. 4.4-13.)

Hazardous Materials, 6.5-5

The Commission must realize that with the passage of City of Carlsbad Ordinance CS-184 the above quoted sections and many others not quoted from the Final Commission Decision are no longer relevant or correct.

The City of Carlsbad's Motion for Official Notice docketed to the CEC on May 30, 2012 clearly states:

Ordinance No. CS-184

On May 22, 2012 the City Council held a public hearing and introduced Ordinance CS-184. It was thereafter adopted on May 29, 2012. Ordinance No. CS-184 is an amendment to the local fire code that clarifies the role of the Carlsbad Fire Department as a responder to incidents at the CECP site. The first reading of this proposal was heard on May 22, 2012. Ordinance CS-184 reads, in part, that the Carlsbad Fire Department is "in a secondary response position and shall provide emergency responses as appropriate on an incident-by-incident basis." The ordinance also contemplates that Response Maps are to be changed to indicate primary response lies with the California Energy Commission, the landowner or the applicant. A copy of Ordinance CS-184 is attached hereto. This ordinance is final and will become effective on June 28, 2012

Therefore, the Final Decision is deficient and must be corrected. It fails to note proper procedures for the protection of "public health and safety" in the areas of Worker Safety and Hazardous Materials. This is clearly required and spelled out in the Warren Alquist Act sections:

§ 25216.3. Design and operational standards; compilation; adoption; compliance (a), § 25300. Legislative findings and declarations (b), § 25506. Comments and recommendations; governmental § 25511. Safety and reliability factors; information required; analysis; findings, § 25523. Written decision; contents (a), § 25532. Monitoring system

Therefore Terramar makes this motion for reconsideration to the Commission.



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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**APPLICATION FOR CERTIFICATION
FOR THE CARLSBAD ENERGY
CENTER PROJECT**

**Docket No. 07-AFC-6
PROOF OF SERVICE**
(Revised 3/27/2012)

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DECLARATION OF SERVICE

I, Kerry Sielkman declare that on June 27[§], 2012, I served and filed a copy of the attached proof of service petition for reconsideration. This document is accompanied by 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 marked "hard copy required."

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. 07-AFC-6
 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
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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 K. Sielkman