State of California

California Natural Resources Agency

Memorandum

To: Karen Douglas, Presiding Member
Paul Kramer, Chief Hearing Officer

Date: May 18, 2012

Telephone: 653-1653

From: Richard Ratliff, Staff Counsel IV
California Energy Commission
1516 Ninth Street – MS-14
Sacramento, CA 95814-5512

DOCKET
07-AFC-6
DATE MAY 18 2012
RECD. MAY 18 2012

Subject: Carlsbad Revised Presiding Member's Proposed Decision; April 16 revisions

Staff supports the Revisions to the PMPD released by the Committee on April 16. The Revisions are consistent with the hearing record, and amplify the Proposed Decision. Staff calls to the Committee's attention one issue in the Revisions that needs to be clarified.

The document responds to several intervenor comments. At page 10 of the document, the Commission responds to a comment from Rob Simpson that the San Diego Air Quality Management District (air district) has very recently (in April 2012) adopted PSD requirements for GHG emissions to implement the federal GHG Tailoring Rule. Simpson's comment suggests that this action could make the PSD requirements state requirements rather than federal ones.

The Revisions response at page 10 apparently assumes that the comment implies U.S. Environmental Protection Agency's (EPA) *delegation* of PSD authority to the air district, and based on that assumption correctly responds that where such authority is delegated the PSD permit remains a federal permit. This issue is addressed in Staff's comments on the RPMPD. However, Simpson's comment is not with regard to delegation; the air district has itself adopted federal PSD requirements that, once submitted to and approved by the California Air Resources Board and the U.S. EPA, will become part of the State Implementation Plan (or "SIP") for the air district. Assuming that these requirements are approved by the agencies mentioned above, they will eventually become state law requirements, as Simpson suggests.

Since Simpson's comment is correct, the response in the Revisions responding to this statement should be deleted, and replaced by a statement that the comment is noted.

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA
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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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*indicates change

DECLARATION OF SERVICE

I, *Pamela Fredieu*, declare that on *May 18, 2012*, I served and filed a copy of the attached *Energy Commission Staff Comments on Revised Presiding Member's Proposed Decision; April 16 revisions*. 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:

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

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AND

For filing with the Docket Unit at the Energy Commission:

_XX_ by sending an one electronic copy 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
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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.

/s/
Pamela Fredieu
Chief Counsel's Office
Legal Secretary