

Memorandum

Date: March 16, 2009
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To: Vice Chairman James D. Boyd, Presiding Member
Commissioner Karen Douglas, Associate Member
Paul Kramer, Hearing Officer

From: California Energy Commission – Mike Monasmith
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07-AFC-6	
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Subject: **CARLSBAD ENERGY CENTER PROJECT (07-AFC-6) STATUS REPORT #5**

Pursuant to the Revised Committee Scheduling Order dated December 26, 2008, staff issues Status Report #5 for the proposed Carlsbad Energy Center Project (CECP) Application for Certification (AFC).

Discovery subsequent to Status Report #4, filed on January 30, 2009

While staff's initial work on the discovery and analysis phase for the proposed CECP culminated with the filing of the Preliminary Staff Assessment (PSA) on December 11, 2008 and its discussion during a two-day PSA Workshop held in Carlsbad on January 7-8, 2009, additional discovery and analysis has occurred subsequent to staff's Status Report #4, filed on January 30, 2009.

The following summary provides the Committee an over-view of this subsequent discovery and ongoing analysis -- by technical area -- as staff works towards its Final Staff Assessment (FSA). Due to this additional analysis, as well as delays in the receipt of reports from outside agencies necessary for the completion of staff's own analysis, the FSA's completion and release is not anticipated until at least late-April, 2009. As was indicated in staff Status Report #4, staff will conduct an FSA Workshop, which may be followed by an addendum to the FSA document, comprising staff's final testimony prior to the commencement of Evidentiary Hearings later this spring.

Status of Outstanding Information by Technical Area

AIR QUALITY

It is staff's unofficial understanding that the San Diego Air Pollution Control District (District) will release their Final Determination of Compliance (FDOC) by mid-April 2009. Staff recommended in the PSA that the applicant provide a small amount of emission reduction credits, either from the District offset bank or by funding the creation of new emissions reductions, for particulate matter, volatile organic compounds (VOCs), and sulfur oxides (SOx) to fully mitigate the project's net permitted increase in nonattainment pollutants and their precursors. Staff filed Data Request Set 4 on January 22, 2009. The data requests focused exclusively on air quality questions resulting from applicant's January 5, 2009, PDOC comment letter.

Status / Response

Applicant's Data Responses to Data Requests Set 4 were filed on February 19, 2009. The new information was helpful in providing staff a better sense of the applicant's new plan of operations for both CECP units, and will be reflected in the Air Quality section of the FSA.

Intervenor Center for Biological Diversity (CBD) filed their first set of data requests on September 26, 2008, and following direct intervention by the Committee, the applicant responded to CBD's questions on January 26, 2009. Staff continues to analyze applicant's data responses and will incorporate new information, where appropriate, into the FSA. On February 2, 2009, CBD filed a set of Data Requests with San Diego Gas & Electric (SDG&E) regarding Greenhouse Gas (GHG) inquiries.

Status / Response

On February 24, 2009, SDG&E responded to CBD's data requests by informing CBD that because SDG&E is not a party to the 07-AFC-6 proceeding, Title 20 regulations, Sec. 1716(h), compels SDG&E to provide responses only when issued by the Committee itself, not a party to any given proceeding, as is the case with CBD in regard to this proceeding. However, SDG&E went on to provide substantive responses to the CBD questions, indicating that there is little information about future Liquefied Natural Gas (LNG) use that is not speculative.

LAND USE

On February 19, 2009, Intervenor City of Carlsbad sent a specific land use letter to Mr. Tim Hemig, Director of Environmental Business for Cabrillo Power, LLC, parent company of the applicant for the 07-AFC-6 proceeding. The letter describes the city's replacement plans for 1) the Vista/Carlsbad Interceptor Sewer Pipeline; 2) the Agua Hedionda Lift Station; and, 3) the development of the Coastal Rail Trail. The letter goes on to stipulate the need for easements for all three projects that would require the use of land on the far western edge of the planned Carlsbad Energy Center Project.

Status / Response

Staff has reviewed the city's February 19, 2009 letter and will address its contentions in the Land Use section of the FSA.

SOIL / WATER

The CECP would eliminate the need for over 220 million gallons per day of once-through ocean water cooling currently used by Encina Power Station (EPS) Units 1-3. While Title 22 reclaimed water-supply is currently not the identified source of water for the CECP's industrial needs (purified ocean water is the planned source), the applicant never intended that the potential use of reclaimed water be eliminated from consideration (as was staff's interpretation in one section of its PSA).

Status / Response

According to the city, Title 22/reclaimed water is not currently available from the city-owned Encina Waste Water Authority. Nonetheless, staff will include analysis in the FSA of the CECP's industrial use of reclaimed water (until at least the time at which final design and construction of the CECP precludes its practicality).

VISUAL RESOURCES

Staff did not speculate in its PSA regarding visual simulations of the proposed CECP and the potential for a widened Interstate 5 (I-5) freeway. However, despite the lack of specific information and a stated I-5 alignment alternative, visual simulations were made by the city, which staff believes are inaccurate. Caltrans submitted a two-page PSA comment letter on February 5, 2009. The letter did not contain any detailed specifics on Caltrans' four I-5 alignment alternatives (nor did it contain a preferred alternative or any visual simulations of the agency's future plans in proximity to the CECP). The Caltrans letter did indicate a willingness to work in a cooperative manner as the agency endeavors to plan for a future expansion of I-5 and the double tracking of the Los Angeles to San Diego Rail Corridor.

Status / Response

While it is very unlikely that Caltrans will release its Final EIR/EIS before the conclusion of the 07-AFC-6 proceeding, staff will recommend appropriate, proportionate mitigation for the projects' contribution to cumulatively significant visual impacts, which will be reflected in the FSA. In addition, staff will avoid speculation on possible impacts from a Caltrans project that has no final alignment.

WORKER SAFETY and FIRE PROTECTION

Since the filing of Status Report #4 on January 30, 2009, both the applicant and Intervenor City of Carlsbad have engaged in meetings and correspondence regarding risk management and appropriate measures for assuring worker safety and fire protection associated with the CECP.

Status / Response

Staff is reviewing recent filings from the applicant and Intervenor City of Carlsbad, as well as PSA comments received by these and other parties to the proceeding, and will recommend conditions of certification to protect public health, minimize hazardous materials risks, and enhance worker safety and fire protection.

FSA Publication

PSA comments were submitted by January 30, 2009, by the applicant, intervenors and agencies (save Caltrans, who filed their PSA comments on February 5, 2009). Staff is diligently working towards resolving issues and making appropriate determinations on LORS compliance and associated mitigation and conditions of certification for inclusion in the FSA. However, due to the large volume of PSA comments filed, and with an FDOC planned for release in mid-April, staff at this time cannot provide a specific date for the publication of the FSA, other than to indicate it will be published by early May, 2009.

cc : Docket (07-AFC-6)
Proof of Service List