

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:)
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)
The Application for Certification of the) DOCKET NO: 07-AFC-6
CARLSBAD ENERGY CENTER PROJECT)
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CENTER FOR BIOLOGICAL DIVERSITY'S OPENING TESTIMONY,
PRELIMINARY IDENTIFICATION OF CONTESTED ISSUES,
AND WITNESS AND EXHIBIT LISTS

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**CENTER FOR BIOLOGICAL DIVERSITY’S OPENING TESTIMONY,
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AND WITNESS AND EXHIBIT LISTS**

Pursuant to the Committee’s Revised Notice of Prehearing Conference and Evidentiary Hearing (Dec. 21, 2009), Intervenor Center for Biological Diversity (“the Center”) provides a preliminary identification of contested issues, witness list, and a list of exhibits. A major failing of the Final Staff Assessment is that the greenhouse gas analysis fails to find that the emission of more than 800,000 tons of new greenhouse gases is a significant effect pursuant to CEQA.

Preliminary Identification of Contested Issues:

The Center identifies the following issues, but reserves the right to supplement this list and reserves the right to participate in issues raised by other parties:

1. Inadequate Project Description -- There is inadequate analysis of the use of regasified LNG, which is a foreseeable fuel source for the plant, resulting in the failure to analyze and describe all of the environmental impacts of the project such as identifying the additional greenhouse gases resulting from the use of LNG.

2. Failure to find that the more than 800,000 tons of CO2 equivalent emissions from the Project is a significant impact. This failure leads to two corollary issues:

- a. There is inadequate analysis of potential greenhouse gas mitigations.
 - b. There is a failure to consider alternatives that have fewer greenhouse gas emissions and to adequately analyze whether the project could be sized smaller or be replaced in whole or in part by renewable energy.
3. Failure to discuss or analyze the amount of greenhouse gas emissions that would result in a significance finding.
 4. Failure to support the claim that the project will result in a net reduction in greenhouse gas emissions.
 5. Failure to adequately describe the nature of the cumulative problem, i.e. adding more greenhouse gases to a world in which significant reductions are required.
 6. Failure to adequately discuss the past, present, and future projects that contribute to the cumulative effect of more greenhouse gas emissions.
 7. Improper weighing of purported environmental benefits of the project against the additive effect of the project on climate change.
 8. Failure to adequately analyze how this specific project is an appropriate addition to the electric system that will help achieve California's stated policies of achieving a 33% RPS by 2020 and of reducing greenhouse gas emissions by 80% by 2050.
 9. Failure to show that a significant new source of greenhouse gases is needed.
 10. Failure to adequately consider a reasonable range of alternatives.

Witness List:

Rory Cox. (Testimony submitted concurrently).

Preliminary List of Exhibits:

The Center plans on cross-examining witnesses with respect to the issues identified above. The Center may also provide rebuttal testimony. The Center's Prehearing Conference

Statement will summarize the scope of the cross examination. The Center presents a preliminary list of exhibits that includes documents that may be introduced on cross-examination based on the urging of the hearing officer to provide disclosure sooner rather than later.¹

The Center is notifying all parties that it will seek, at the appropriate time in the proceeding, admission of the following documents through official notice and/or during use in cross examination to determine if the requisite environmental analysis was conducted.

The following documents were cited by the CEC staff in the FSA. The Center believes that these would be properly filed as staff exhibits. However, to ensure that each of the documents is part of the record, the Center lists them in this filing:

Exhibit	Date	Description	Web Link
600	12/03	2003 Integrated Energy Policy Report	http://www.energy.ca.gov/reports/100-03-019F.PDF
601	2007	2007 Integrated Energy Policy Report	http://www.energy.ca.gov/2007publications/CEC-100-2007-008/CEC-100-2007-008-CMF.PDF
602	12/09	2009 Integrated Energy Policy Report	http://www.energy.ca.gov/2009publications/CEC-100-2009-003/CEC-100-2009-003-CMF.PDF
603	7/06	Anders and Bialek, "Technical Potential for Rooftop Voltaics in the San Diego Region"	http://www.sandiego.edu/epic/publications/documents/060309_ASESPVPotentialPaperFINAL.pdf
604	5/27/09	Framework for Evaluating Greenhouse Gas Implications of Natural Gas-Fired Power Plants in California	http://www.energy.ca.gov/2009publications/CEC-700-2009-009/CEC-700-2009-009.PDF
605	10/08	ARB, Climate Change, Proposed Scoping Plan a Framework for Chang Pursuant to AB 32.	http://www.arb.ca.gov/cc/scopingplan/document/adopted_scoping_plan.pdf

The following documents were not referenced by the CEC. These include the documents referenced by Mr. Cox as well as Exhibits that may be introduced on cross-examination:

¹ Please note, the Center plans to include a report that discusses the costs of rooftop solar that is due to be released in January, 2010, and is currently unavailable.

Exhibit	Date	Description	Web Link
606	9/2/04	CPUC Rulemaking 04-01-025	http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/39721.htm
607	8/09	Sempra LNG Update Presentation to CEC	http://www.energy.ca.gov/lng/documents/costa_azul/2009-08-04_Sempra_LNG_Update_Presentation.pdf
608	2008	Sempra Energy 2008 Financial Report	http://www.sempra.com/annualreport/financial_report.pdf
609	5/15/08	Sempra Energy Press Release re: Costa Azul	http://public.sempra.com/newsreleases/viewPR.cfm?PR_ID=2270&Co_Short_Nm=SE
610	9/22/09	DOE Order Allowing Sempra to Import and Export LNG	http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders_Issued_2009/ord2699.pdf
611	8/4/09	Royal Dutch Shell Press Release re: LNG and Natural Gas Contracts with Gazprom Global	http://www.shell.com/home/content/media/news_and_library/press_releases/2009/gazprom_shell_signing_contract_08042009.html
612	4/17/09	DOE Order Allowing Gazprom to Import LNG from Various International Sources	http://www.fossil.energy.gov/programs/gasregulation/authorizations/Orders_Issued_2009/ord2629.pdf
613	12/15/09	EPA: Endangerment and Cause or Contribute Findings for Greenhouse Gases	http://edocket.access.gpo.gov/2009/pdf/E9-29537.pdf
614	4/08	Hansen, J. <i>et al.</i> , "Target Atmospheric CO2: Where should Humanity Aim?"	http://arxiv.org/ftp/arxiv/papers/0804/0804.1126.pdf
615	4/08	James Hansen, "Tipping Point: Perspectives of a Climatologist"	http://www.columbia.edu/~jeh1/2008/StateOfWild_20080428.pdf
616	5/11/08	Bill McKibben OpEd in LA Times - Civilization's last chance	http://www.latimes.com/news/opinion/commentary/la-op-mckibben11-2008may11,0,2342317,print.story
617	2/27/08	Matthews, H.D., and Caldeira, K. "Stabilizing climate requires near-zero emissions,"	(included on CD -- not available online)
618	2008	Collision Course: How Imported Liquefied Natural Gas Will Undermine Clean Energy in California	http://www.pacificenvironment.org/downloads/PacEnvCollisionCourse%20FINAL.pdf
619	5/7/06	Heede, LNG Supply Chain GHG Emissions Report	http://slc.ca.gov/Division_Pages/DEPM/DEPM_Programs_and_Reports/BHP_Deep_Water_Port/ERRATA_CSLC/Vol%20II/EDC%20Attachments%20Vol%20II-06a.pdf
620	2007	Jaramillo, et al. "Comparative Life Cycle Air Emissions of Coal, Domestic Natural Gas, LNG, and SNG for Electricity Generation"	http://www.desertrockenergyproject.com/Griffin%20-%20Final%20LNG%20GHG%20analysis%20(2006).pdf

621	7/06	California Climate Change Center, Our Changing Climate Assessing the Risks to California	http://www.climatechange.ca.gov/publications/biennial_reports/index.html
622	6/1/05	Governor Schwarzenegger's Executive Order S-3-05	http://gov.ca.gov/index.php?/print-version/executive-order/1861/
623	6/09	33% Renewable Portfolio Standard Implementation Analysis Preliminary Results	http://www.cpuc.ca.gov/NR/rdonlyres/1865C207-FEB5-43CF-99EB-A212B78467F6/0/33PercentRPSImplementationAnalysisInterimReport.pdf
624	10/08	Renewable Portfolio Standard Quarterly Report	http://www.cpuc.ca.gov/NR/rdonlyres/A7691A23-1B7E-4B02-8858-9D964A3B17A3/0/RPS_Rpt_to_Legislature_Oct_2008.pdf
625	1/6/10	Current Renewable Procurement Status	http://www.cpuc.ca.gov/PUC/energy/Renewables/index.htm
626	6/19/08	OPR Technical Advisory on CEQA and Climate Change	http://www.opr.ca.gov/ceqa/pdfs/june08-ceqa.pdf
627	10/24/08	CARB draft Recommended Approaches for Setting Interim Significance Thresholds for GHG under CEQA	http://www.arb.ca.gov/cc/localgov/ceqa/meetings/102708/prelimdraftproposal102408.pdf
628	12/5/08	South Coast Interim CEQA GHG Significance Threshold	http://www.aqmd.gov/hb/2008/December/081231a.htm
629	1/08	California Air Pollution Control Officers, CEQA and Climate Change	http://www.capcoa.org/rokdownloads/CEQA/CAPCOA%20White%20Paper.pdf
630	10/09	CEC: Combined Heat & Power Market Assessment	http://www.energy.ca.gov/2009publications/CEC-500-2009-094/CEC-500-2009-094-D.PDF
631	8/05	Anders, et al. "Potential for Renewable Energy in the San Diego Region"	http://scerpfiler.org/cont_mgt/doc_files/E-04-04.pdf
632	10/07	Powers, "San Diego Smart Energy 2020"	http://www.sdsmartenergy.org/11-oct-07_SD_Smart_Energy_2020_exec-summary_FINAL1.pdf

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