

DOCKETED

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APPEAL TO FULL COMMISSION

Additional submitted attachment is included below.

APPEAL TO FULL COMMISSION

Docket Number: 98-AFC-03C Project Title: Delta Energy Center Compliance

In an abundance of caution and without clear regulatory guidance on redress I hereby submit this appeal to the full commission under 1211.7 (e). I petitioned to intervene and received a response from the chief counsel's office which for this instance we must consider a ruling;

Mr. Simpson - This email is in reference to the motions and petition you and Helping Hands Tools docketed on April 7, 2017, regarding the Commission's March 8, 2017, approval of amendments to the Delta Energy Center certification. Please be advised that the Commission's regulations regarding motions and Warren Alquist Act provisions regarding petitions for reconsideration apply only to parties. Because you and Helping Hands Tools were not parties to the amendment proceeding, neither of you are authorized to submit the motions and petition. Accordingly, the Commission will not take action on your submissions. Thanks, Kirk Oliver Senior Attorney California Energy Commission

The Chief Counsels office did not have authority to make this ruling. I did not have an opportunity to intervene in the amendment proceeding. There is no regulatory guideline which addresses intervention in an amendment proceeding. There was no 30 day time period and there seemed to be no evidentiary hearing as contemplated in 1211.7(c). No notice included disclosure of any deadline for intervention as required in 1211.7(c) For these and the reasons set for the in our motions, petitions, Supreme court petition, Superior Court Petition, EPA, EAB appeal and Complaint received by the air district we have demonstrated good cause to grant intervention

§ 1211.7. Intervenors.

(a) Subject to the provisions of specific proceedings, any person may file a petition to intervene. The petition shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, mailing address, e-mail address, and telephone number of the petitioner.

(b) A petition for intervention shall be filed no later than the deadline established by the presiding member, or if none is established, at least 30 days before the first evidentiary hearing in the proceeding. If the time period between notice of the first evidentiary hearing and the hearing is less than 30 days, the notice shall contain the deadline for intervention.

(c) The presiding member may grant intervention and may impose reasonable conditions on an intervenor's participation, including, but not limited to, ordering intervenors with substantially similar interests to consolidate their participation or limiting an intervenor's participation to specific topics. An intervenor is a party to a proceeding.

(d) The presiding member may grant late petitions only on a showing of good cause by the petitioner. No person who becomes a party shall be permitted to reopen matters or reopen discovery dealt with in the proceeding prior to the time when such person became a party, without an order from the presiding member based upon a showing of good cause.

(e) Any ruling on a petition to intervene may be appealed by the petitioner to the full commission within 10 days of the ruling. Failure to file a timely appeal will result in the presiding member's denial becoming the final action on the matter.

(f) Any petitioner may withdraw from any proceeding by filing a notice to such effect.