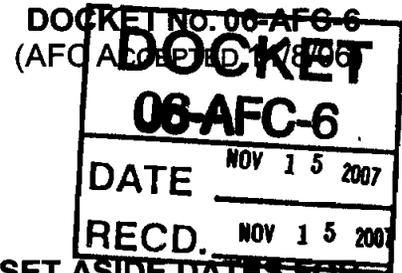


**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION FOR THE
EASTSHORE ENERGY CENTER IN HAYWARD
BY TIERRA ENERGY OF TEXAS**



**ORDER DENYING INTERVENORS' REQUESTS TO SET ASIDE DATES FOR
PREHEARING CONFERENCE & EVIDENTIARY HEARING**

I. Background

The Preliminary Staff Assessment (PSA) was published August 17, 2007. The Final Staff Assessment (FSA) was expected to be filed at the end of October 2007, pending receipt of information on the aviation issue raised in the PSA.

On October 17, 2007, we issued a Notice of Prehearing Conference (PHC) and Evidentiary Hearing (EH) dates, scheduling the PHC on November 26, 2007, and the EH on December 17-18, 2007 (herein "Notice"). The Notice was broadly distributed to the Hayward community to provide ample time for the media and local residents to learn about the hearing dates. The FSA was subsequently filed on November 9, 2007. The FSA is substantially the same as the PSA, except for the updates on aviation concerns and additional analysis of the potential cumulative impacts of the Russell City and Eastshore projects. On November 13, 2007, Intervenor Paul Haavik filed a Petition to set aside the dates scheduled for the PHC and EH. On November 14, 2007, Intervenor Alameda County filed a letter also requesting postponement of the PHC and EH.

In his Petition, Mr. Haavik argues that the PHC and EH should be respectively postponed for 30 days because the late filing of the FSA hinders his ability to prepare for the PHC. Alameda County, having intervened on November 9, 2007, requests a similar time extension to prepare for the PHC.

On November 15, 2007, Applicant filed an Opposition to Intervenor Haavik's Petition, asserting that Applicant should not be penalized by Staff's delays in completing the certification process within the 12-month statutory timeline.

II. Energy Commission Process

Section 1718.5(a) of the Energy Commission's regulations (Cal. Code of Regs., tit. 20, § 1718.5(a)) provides that the Committee shall hold one or more PHCs with all parties and interested agencies to establish procedures, identify issues,

and set schedules for adjudicatory hearings. (See also, section 1208, which requires the Notice to be served at least 10 days before the PHC. In this case, the Notice was served 40 days before the PHC.) Section 1747 states that the FSA shall be filed at least 14 days before the EH. Notably, the instant FSA was filed 38 days before the EH.

The PHC, currently scheduled on November 26, 2007, is consistent with the regulations and does not preclude any party from offering additional statements of facts or raising issues or presenting testimony during the EH. (See, section 1718.5(c).) The Intervenors' concern about preparation time is not persuasive since they will have the opportunity to present testimony and documentary evidence at the EH. As indicated in the Notice, the purpose of the PHC is to discuss issues, identify witnesses, produce exhibits, and plan the presentation of evidence at the EH. To reiterate, only the parties may present evidence and cross-examine witnesses. Witnesses must have expertise in the scope of their testimony.

Since this proceeding has been ongoing for more than twelve months, time extensions to review case materials will not be granted to new Intervenors such as Alameda County. (See, Notice, p. 4.) Both Mr. Haavik and Alameda County representatives have participated in the process since the Application for Certification was filed. Energy Commission staff has consulted with Mr. Haavik and several Alameda County staff over the course of this review.

Mr. Haavik notes that a printed version of the FSA and access to the October 9, 2007, letter from the FAA were not available for public review. All documents filed with the Energy Commission's docket unit are posted on the Energy Commission's webpage and are, therefore, accessible to Mr. Haavik. His assertions to the contrary are not consistent with his usual diligence in reviewing project-related information.

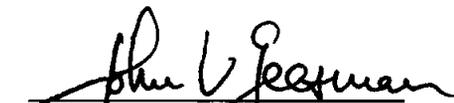
III. ORDER

It is hereby Ordered that Intervenors Haavik and Alameda County's requests for delay in the schedule for the PHC and EH be DENIED. Neither party has shown an undue burden nor prejudice as a result of the FSA's November 9, 2007, filing date, nor are the parties precluded from presenting witnesses or other evidence at the EH.

Dated: November 15, 2007 at Sacramento, California.



JEFFREY D. BYRON
Commissioner and Presiding Member
Eastshore AFC Committee



JOHN L. GEESMAN
Commissioner and Associate Member
Eastshore AFC Committee

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION
FOR THE EASTSHORE ENERGY CENTER
IN CITY OF HAYWARD
BY TIERRA ENERGY

Docket No. 06-AFC-6

PROOF OF SERVICE
(Revised 11/14/2007)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Greg Trewitt, Vice President
Tierra Energy
710 S. Pearl Street, Suite A
Denver, CO 80209
greg.trewitt@tierraenergy.com

Harry Rubin, Executive Vice President
RAMCO Generating Two
1769 Orvietto Drive
Roseville, CA 95661
hmrenergy@msn.com

COUNSEL FOR APPLICANT

Jane Luckhardt, Esq.
Downey Brand Law Firm
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

APPLICANT'S CONSULTANTS

David A. Stein, PE
Vice President
CH2M HILL
155 Grand Avenue, Suite 1000
Oakland, CA 94612
dstein@ch2m.com

INTERESTED AGENCIES

Jennifer Scholl
Senior Program Manager
CH2M HILL
610 Anacapa Street, Suite B5
Santa Barbara, CA 93101
jscholl@ch2m.com

Larry Tobias
CA Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
ltobias@caiso.com

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

Greg Jones, City Manager
City of Hayward
777 B Street
Hayward, California 94541
greg.jones@hayward-ca.gov
michael.sweeney@hayward-ca.gov
maureen.conneely@hayward-ca.gov

INTERVENORS

Paul N. Haavik
25087 Eden Avenue
Hayward, CA 94545
lindampaulh@msn.com

James Sorensen, Director
Alameda County Development Agency
Att: Chris Bazar & Cindy Horvath
224 West Winton Ave., Rm 110
Hayward CA 94544
james.sorensen@acgov.org
chris.bazar@acgov.org
cindy.horvath@acgov.org

Richard Winnie, Esq.
Alameda County Counsel
Att: Andrew Massey, Esq.
1221 Oak Street, Rm 463
Oakland, CA 94612
richard.winnie@acgov.org
andrew.massey@acgov.org

ENERGY COMMISSION

Jeffrey D. Byron, Presiding Member
jbyron@energy.state.ca.us

John L. Geesman, Associate Member
jgeesman@energy.state.ca.us

Susan Gefter, Hearing Officer
sgefter@energy.state.ca.us

Bill Pfanner, Project Manager
bpfanner@energy.state.ca.us

Caryn Holmes, Staff Counsel
cholmes@energy.state.ca.us

Public Adviser
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Kate Nicholls, declare that on 11/15/07, I deposited copies of the attached ORDER DENYING INTERVENORS' REQUEST TO SET ASIDE DATES FOR PREHEARING CONFERENCE AND EVIDENTIARY HEARING in the United States mail at Sacramento, CA, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.



Kate Nicholls