

**DOCKET**  
**06-AFC-6**  
DATE NOV 16 2007  
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13 **STATE OF CALIFORNIA**  
**State Energy Resources**  
14 **Conservation And Development Commission**

15 \_\_\_\_\_ )  
In the Matter of: )

) Docket No. 06-AFC-6

16 )  
17 )  
18 ) APPLICATION FOR CERTIFICATION  
FOR THE EASTSHORE ENERGY  
19 ) CENTER  
\_\_\_\_\_ )

) PETITION FOR INTERVENTION AS  
AN AGENCY

20  
21 Pursuant to §§ 1207 and 1712 of Title 20 of the California Code of Regulations, the  
22 City of Hayward (“the City”) petitions to intervene in the above-entitled proceeding for the  
23 Eastshore Energy Center (“EEC”).  
24

25 **I. Standard for Petition to Intervene**

26 Section 1207(a) provides that “[a]ny person may file . . . a petition to intervene in  
27 any proceeding” provided said petition sets forth “the grounds for the intervention, the  
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1 position and interest of the petitioner in the proceeding, the extent to which the petitioner  
2 desires to participate in the proceedings, and the name, address, and telephone number of  
3 the petitioner.” Pursuant to § 1207(c), “[t]he presiding member may grant leave to  
4 intervene to any petitioner to the extent he deems reasonable and relevant, but may grant a  
5 petition to intervene filed after the deadline . . . only upon a showing of good cause by the  
6 petitioner.”

7 The Notice of Prehearing Conference and Evidentiary Hearing Dates issued  
8 October 16, 2007 provides that petitions for intervention must be filed on or before  
9 November 19, 2007. Therefore, the City’s petition is timely, and does not require a  
10 showing of good cause.

11

12 **II. The City’s Significant Concern with the EEC Necessitates Its Intervention as a**  
13 **Party**

14 Hayward is a city located on the east side of the San Francisco Bay in Alameda  
15 County. Hayward is home to nearly 150,000 residents. The City government works  
16 diligently to ensure the health, safety and welfare of the City’s inhabitants and visitors.  
17 This Petition is necessary because the EEC’s location within the City’s boundaries will  
18 have undeniable and irrevocable impacts on the City’s airport, land use planning efforts,  
19 natural environment, social culture, and the health, safety and welfare of City residents.

20 As such, the City strongly opposes the EEC and believes there is no proposed  
21 mitigation or additional mitigation that can avoid the EEC’s noncompliance with laws,  
22 ordinances, regulations and standards.

23 The EEC is inconsistent with the City’s General Plan. The EEC is sited in an area  
24 in which it is not a permitted use and cannot meet the standards for obtaining a conditional  
25 use permit. The EEC is located adjacent to commercial and residential uses, which, in  
26 addition to bearing the burden of environmental impacts, will be subject to the visual blight  
27 of 14, 70-foot tall stacks proposed by the project.

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1           The City is also concerned about the direct and negative impact the EEC will have  
2 on the Hayward Executive Airport. The potential airspace obstructions caused by the EEC  
3 and the limits such developments may have on future plans for the airport seriously conflict  
4 with the best interests and safety of the City's residents.

5           Finally, the City has concerns about the EEC's potential detrimental effect on the  
6 environment. Air pollution from the EEC may adversely affect the City's lakes, streams  
7 and groundwater; damage sensitive wildlife and plant habitat; and endanger the health of  
8 sensitive populations. Stormwater pollution from the EEC may strain the City's already  
9 significant efforts to reduce pollutants that end up in the San Francisco Bay. Finally,  
10 storage of large amounts of hazardous wastes may overwhelm the City's emergency  
11 services in the event of an accident. The City may have to spend significant funds to  
12 counteract these negative consequences of constructing the EEC facility.

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14 **III. The City Intends to Fully Participate in the Proceedings**

15           Given its extensive list of concerns with the EEC proposal, the City intends to fully  
16 participate in every phase of the proceedings. In addition, the City plans to make use of the  
17 additional discovery and evidentiary powers afforded to parties. The City also reserves its  
18 right to present evidence and cross-examine witnesses.

19           Petitioner is not a member of a group or organization already a party to this  
20 proceeding and the City of Hayward has an interest in this proceeding that cannot be  
21 adequately represented by any other party.

22           Petitioner will be represented in this proceeding by:

23                     Robert Bauman, Director of Public Works  
24                     David Rizk, Planning Manager, Department of Community and Economic  
25                     Development, Planning Division  
26                     City of Hayward  
27                     City Hall, 777 B Street, Hayward CA 94544

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1           Petitioner understands that it will receive all relevant documents in this proceeding  
2 and that it will be responsible for supplying other parties with information and documents  
3 properly requested, as well as complying with Orders of the Presiding Committee.

4           Petitioner certifies that it has served a copy of this Petition upon the Applicant's  
5 attorney-of record in this proceeding.

6

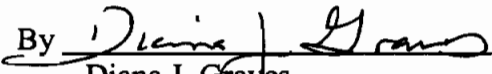
7 DATED:       November 16,2007

MAUREEN CONNEELY, Interim City  
Attorney

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By   
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Pillsbury Winthrop Shaw Pittman LLP

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Attorneys for City of Hayward

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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](mailto:docket@energy.state.ca.us)

<b>DOCKET</b>	
<b>06-AFC-6</b>	
DATE	NOV 14 2007
RECD.	NOV 15 2007

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### **DECLARATION OF SERVICE**

I, \_\_\_\_\_, declare that on \_\_\_\_\_, I deposited copies of the attached \_\_\_\_\_ in the United States mail at \_\_\_\_\_ 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.



***Signed by***

Michael R. Wilson  
Paralegal