

DOCKET 06-AFC-6	
DATE	NOV 19 2007
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STATE OF CALIFORNIA
Energy Resources Conservation
And Development Commission

In the Matter of:)	Docket No. 06-AFC-6
)	
Application for Certification for the)	
Eastshore Energy Center in Hayward)	November 19, 2007
by <u>Tierra Energy of Texas</u>)	

Staff's Prehearing Conference Statement

On October 17, 2007 the Committee overseeing the application for certification for the Eastshore Energy Center project issued a Notice of Prehearing Conference and Evidentiary Hearing Dates. In the Notice, the Committee directed the parties to file Prehearing Conference Statements addressing eight issues no later than November 19, 2007. This is staff's Prehearing Conference Statement.

- 1) Complete Topic Areas: All topic areas are complete and ready to proceed to evidentiary hearings.
- 2) Incomplete Topic Areas: There are no incomplete topic areas.
- 3) Disputed Areas: Although staff has not yet seen the applicant's or the interveners' testimony, it believes that the following issues will require adjudication: Land Use, Traffic and Transportation, Public Health, and Air Quality.
- 4) Identity of witnesses, topic areas, testimony summaries, and time requirements: The staff witnesses sponsoring testimony, a summary of that testimony, and the qualifications of those witnesses are presented in the Final Staff Assessment (FSA), filed November 9, 2007. Staff plans to present direct testimony in Public Health, Air Quality, Traffic and Transportation, and Land Use. Each topic will require 15 minutes of direct testimony. Staff reserves the right to request direct testimony in other areas, if the comments provided at the Prehearing Conference indicate that such testimony is warranted.

In addition, staff notes that it has requested that David Butterfield of the Federal Aviation Administration, Gary Cathey of Caltrans Aeronautics Division, and Brian Lusher of the Bay Area Air Quality Management District be available at the hearing to answer questions about documents they have prepared on behalf of their respective agencies regarding this project. These documents are identified in Item 6 below.

Proof of Service (Revised 11/9/07) filed with original.
Mailed from Sacramento on 11/19/07 *EL*

- 5) **Cross examination estimates:** Although other parties have not yet filed testimony, staff believes that it will need to conduct cross-examination in the areas of Air Quality, Public Health, Land Use, Traffic and Transportation. Staff estimates that it may require one hour to conduct cross examination of each party for each contested topic. Staff reserves the right to request cross-examination in other areas, if the comments provided at the Prehearing Conference indicate that such testimony is warranted.
- 6) **Exhibit list:** If the Committee wishes the FSA to be entered as a single Exhibit, staff proposes to identify it as Exhibit 200. The FSA addresses all technical areas associated with staff's review of the project. The declarations of all staff who prepared the FSA are included in that document. However, if the Committee wishes, staff can separate the FSA by chapter, with each substantive Chapter constituting a separate exhibit for a total of 25 exhibits. In addition, staff is separately identifying the following documents that it relied on in preparing the Air Quality, Public Health, Traffic and Transportation, and Land Use sections of the FSA. We do not give them exhibit numbers at this time, because some of them were prepared by other parties or potential parties, who would more appropriately sponsor them. However, they are likely to be frequently referred to in the contested portions of the hearings for the Eastshore Energy Center, and the Committee may wish them to be separately identified:

Final Determination of Compliance, Bay Area Air Quality Management District, docketed October 23, 2007.

Resolution 02-2007, Alameda County Airport Land Use Commission, adopted October 17, 2007.

Letter from Gary Cathey, Chief, Office of Airports, California Department of Transportation, Division of Aeronautics, regarding the Eastshore Energy Center project, dated November 1, 2007.

Letter from Joseph Rodriguez, Supervisor, Environmental Planning and Compliance Section, Western-Pacific Region, Airports Division, regarding the Eastshore Energy Center, dated October 9, 2007.

Port of Oakland Letter comments on the Preliminary Staff Assessment for the Eastshore Energy Center, dated September 14, 2007.

E-mail from David Butterfield, Flight Standards, Western Region, to Eric Knight, California Energy Commission, dated October 16, 2007.

Letter from Gregory T. Jones, City of Hayward City Manager, Comments on the Eastshore Preliminary Staff Assessment, dated October 9, 2007.

- 7) **Schedule proposal:** Staff proposes that opening briefs be filed five days after the transcripts become available, and that reply briefs be filed five business days after the opening briefs are filed.
- 8) **Conditions of Certification:** Staff believes that the Conditions of Certification identified in the Final Staff Assessment are complete, enforceable, and consistent with the evidence that will be presented at hearings.

Date: November 19, 2007

Respectfully submitted,



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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 11/19/2007)

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:

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DECLARATION OF SERVICE

I, Lynn Tien-Tran, declare that on November 19, 2007, I deposited copies of the attached STAFF'S PREHEARING CONFERENCE STATEMENT 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.



LYNN TIEN-TRAN