

DOCKET	
06-AFC-6	
DATE	DEC 03 2007
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From: Bill Pfanner
To: Docket Optical System
Date: 12/3/2007 10:04 AM
Subject: Fwd: Re: Eastshore, 06-AFC-6, Hearing Process

Please docket for the Eastshore project and return to me a hard copy with stamp and PDF for the web. Thanks.

Bill

>>> Jewell Hargleroad <jewellhargleroad@mac.com> 11/30/2007 4:45 PM >>>
 Ms. Geffer:

This is to comment on the attachment you circulated concerning the topic and witness schedule.

Additionally, Group Petitioners agree with the applicant's suggestion that Land Use and Traffic and Transportation precede the subjects you presently have scheduled for Monday. Logically it makes sense and these issues are interrelated with and on some subjects lay the ground work for air quality and public health.

Power Plant Efficiency- I believe our Pre-hearing Conference Statement raised substantial issues concerning this and this also relates to air quality issues which we disputed.

Local Systems Effect- Group Petitioners should be listed as cross, we specifically requested cross.

Traffic and Transportation - Group Petitioners should be listed as cross, we specifically requested cross. We note that in addition to the CEC, Group Petitioners also listed as witnesses Gary Cathey and David Butterfield. Based on my telephone conversation with Mr. Cathey, he is available either day, Mr. Butterfield is checking.

Land Use - We realize there will be overlap between traffic and transportation and land use. In addition to being listed for cross, Ms. Ford, Mr. White, Mr. Richards and Mr. Erhard should be included as their declarations likewise likely will relate to land use.

Socio-economics: Group Petitioners should be listed as cross, we specifically requested cross. Additionally, from what I understood, Mr. Haavik was going to introduce a declaration from a person from Fremont Bank which employs 250 people next to this proposed project. It would seem appropriate for his or her declaration to be listed under socio-economic.

Environmental Justice: Group Petitioners should be listed as cross, we specifically requested cross.

As far as Ms. Holmes' request to identify who will be subject to cross under Air Quality, we will be better able to respond to that request after receiving the parties' respective declarations.

Also, we agree with the issues raised by the County concerning the accommodations. One problem we encountered was that there were some chairs "bolted" to the floor making them difficult to use and effectively acting as a barrier. We would appreciate it if the City could arrange to "unbolt" them in addition to providing each party with sound rather than making Chabot, the County and Group Petitioners "share" the microphone while the other parties enjoy the benefit of their own.

In regard to the Council meeting Tuesday, given the acknowledged detrimental impact of this project on the community in general, perhaps the Council might use another hearing room that evening, particularly in light of the number of parties and witnesses and everyone's ability to have needed documents available.

Thank you for your attention in this matter.

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On Nov 30, 2007, at 1:24 PM, Caryn Holmes wrote:

Ms. Gefter - I would like to respectfully suggest that the section of the agenda addressing the contested topics identify which specific witnesses will be subject to cross examination. Currently, the agenda implies that each party conducting cross examination will be cross examining all of the witnesses on that topic, which I don't understand to be the case. For example, under Air Quality, the agenda identifies that only the Pilots Group will be conducting cross examination, but it doesn't indicate which witnesses it wishes to cross examine. It may be easier to estimate the time needed for each topic if we have a sense of how many witnesses will be cross examined for each of the contested topics.

Thank you for your consideration of this suggestion.

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>>> Susan Gefter 11/30/2007 12:19 PM >>>
To the parties:

In response to Alameda County's request for clarification on declarations:

All direct testimony must be submitted by declaration signed under penalty of perjury. (Cal. Code Regs., tit. 20, sec. 1224.) All declarations are due December 7, 2007, as directed by the Committee at the Prehearing Conference. All parties must identify their witnesses and submit their declarations by December 7, 2007.

Witness qualifications are incorporated by reference and included with each declaration.

Each declaration is identified and numbered as an exhibit.

Each declaration describes and identifies the exhibit number for each document sponsored by the witness in support of his or her testimony.

It is not necessary for witnesses to attend the hearing on topics that the parties did not request cross-examination. The witnesses' declarations on uncontested topics may be offered into evidence by a party's authorized representative. For example, Applicant and Staff's project managers or other authorized representatives may offer their declarations and exhibits. Other parties may choose an authorized representative to offer their uncontested declarations and exhibits.

At the start of the hearing on Dec 17, the parties may offer their declarations and exhibits on uncontested topics (i.e., those topics where no cross-examination was requested by the parties.) Parties may stipulate to the admission of these declarations and exhibits so we can save the time of going through each topic and exhibit one by one.

The parties' authorized representatives will be sworn by the Court Reporter at the hearing. Any other witness who offers oral testimony will also be sworn by the Reporter.

Energy Commission staff's written testimony includes the Final Staff Assessment (FSA). The FSA will be numbered as Exhibit 200. The authors' qualifications are included in the FSA. The Project Manager will offer the FSA into the record. Applicant's Application for Certification (AFC) is Exhibit 1. Applicant's Project Manager may offer the AFC into the record.

Contested topics are: AQ, Public Health, Local System Effects, Alternatives, EJ, Noise, Land Use, Traffic & Transportation. The parties may offer oral, direct testimony and may cross-examine witnesses on these topics. Staff and Applicant will make their witnesses on these topics available for cross-examination at the hearing (including witnesses from the Air District). NOTE: Intervenor Chabot, Alameda County, and City of Hayward indicated intent to provide oral testimony on Socioeconomics but they did not request to cross-examine Applicant or Staff witnesses on this topic.

Any party's witness who testifies at the hearing is subject to cross-examination by the other parties. Only the parties may present evidence and cross-examine witnesses. Repetitive testimony is not encouraged.

Exhibits and complete exhibit lists are due December 7, 2007; along with your exhibits, each party shall submit a LIST of your exhibits using the following format:

"Exhibit XX: Air Quality Testimony and Resume of Jack Doe, dated ____, 2007. Docketed ____, 2007, Sponsored by Intervenor _____; received into evidence on December __, 2007."

The Committee's Notice of Evidentiary Hearing will be issued next week on Dec 3 or 4. Please let me know if you have changes to the proposed hearing schedule. Applicant requests that the topics of Socio and EJ be heard on Dec 17 so there will be enough time on Dec 18 for Land Use and Traffic & Transportation. Since Socio and EJ are concerns of the local community, we could schedule those topics around the Public Comment period on Dec 17.

Susan Gefter
Hearing Officer
Eastshore AFC Committee
California Energy Commission
Tel: 916-653-6110