

Bill Pfanner - Fwd: Re: FAA Comments on Eastshore Energy Center

From: Eric Knight
To: Bill Pfanner
Date: 10/16/2007 12:10 PM
Subject: Fwd: Re: FAA Comments on Eastshore Energy Center
CC: Caryn Holmes
Attachments: Caryn Holmes

DOCKET	
DATE	OCT 16 2007
R	OCT 17 2007

>>> <David.Butterfield@faa.gov> 10/10/2007 10:42 AM >>>

Eric,

I had a discussion with FAA headquarters on the October 4th regarding the TFR NOTAM for power plants and airport traffic patterns. It was reconfirmed that it is FAA policy that the TFR NOTAM does not apply to aircraft landing and departing from an airport. This applies to existing and proposed power plants. The intent is to prevent pilots from loitering over power plants. Aircraft in a traffic pattern are not considered to be loitering, no matter how many touch and goes they may make.

If you use the TFR in the CEC's position regarding the EEC proposal, the FAA will not be able to support the argument if challenged by the proponent. We removed our original concern over the TFR NOTAM in our September 18th letter to the CEC regarding the RCEC proposal, and we made no reference to it in the San Francisco ADO's letter of October 9th to the CEC regarding the EEC proposal.

David Butterfield
 Flight Standards
 AWO/AWP-230.9
 310.725.7230
 310.725.6857 FAX

"Eric Knight" <Eknight@energy.state.ca.us>

10/02/2007 02:20 PM

To David Butterfield/AWP/FAA@FAA
 cc "Bill Pfanner" <Bpfanner@energy.state.ca.us>, "Shaelyn Strattan" <Mstratta@energy.state.ca.us>, "Paul Richins" <Prichins@energy.state.ca.us>

Subject FAA Comments on Eastshore Energy Center

David,

PROOF OF SERVICE / REVISED 9/28/07 FILED W/ 10/17/07
 ORIGINAL MAILED FROM SACRAMENTO ON 10/17/07

Thank you for your return call last week that you will be coordinating with George Aiken

in a response to our request (see below) for comments on the proposed Eastshore Energy Center. We look forward to the FAA's comment on this project. In your review, we request that the FAA consider the cumulative effect of not just having one power plant (Russell City Energy Center) but two power plants within the airspace of the Hayward airport. Also, we request that you coordinate your review with U.S. Department of Homeland Security. We spoke with a Homeland Security representative who suggested the opposite of what was stated in the FAA's 9/25/07 letter regarding the RCEC project, that "The Western-Pacific Flight Standards Division has subsequently obtained further guidance from FAA headquarters that this NOTAM [national security flight restriction over/in the proximity of critical infrastructure] does not apply to aircraft departing from or arriving to an airport." In addition, an FAA official told us that he couldn't advise us on what "avoid flying in the proximity of" means since the NOTAM/TFR was issued by FAA at the request of Homeland Security. We're curious if it's only existing critical infrastructure near airports that the NOTAM/TFR doesn't apply to (i.e., they're "grandfathered in") and if Homeland Security was consulted they'd respond that locating a new power plant or other critical infrastructure near an airport would be inadvisable and would in effect undermine the intent of the NOTAM/TFR. If it would apply, an indication on the extent of the area to be avoided in this case would be helpful. This is a question on the mind of the Alameda County Airport Land Use Commission, who are concerned about the utility of the Hayward airport airspace. The ALUC will be making their (advisory) decision on the EEC project at their meeting on October 17, 2007.

Thank you,

Eric Knight, Supervisor
Community Resources Unit
California Energy Commission
(916) 653-1850

[illegible]

Dear Mr. Aiken,

California Energy Commission (CEC) staff sent a request to the FAA on August 23, 2007 (see attached letter to Mr. Joseph Rodriguez and Mr. Andy Richards, Airports Division) for comments on the proposed Eastshore Energy Center (EEC) in the City of Hayward. If approved by the CEC, this power plant would be located approximately one mile south of the Hayward Executive Airport runway areas and within the Airport Influence Area for the Hayward airport. The EEC should be considered from a cumulative standpoint in

your review of the proposed Russell City Energy Center. In addition, CEC staff requests that the multi-divisional team that you are assembling at the FAA also review the proposed EEC and provide comment in this licensing proceeding. On August 17th CEC staff published its Preliminary Staff Assessment (PSA) on the EEC. The PSA and other relevant documents can be viewed and/or downloaded from the CEC's website at: <http://www.energy.ca.gov/sitingcases/eastshore/documents/index.html>. The aviation issues are addressed in the Land Use and Traffic/Transportation sections of the PSA. The attached letter provides a summary of our conclusions regarding this project's impact on air traffic safety and the utility of the Hayward airport and its airspace. Staff is now preparing our Final Staff Assessment (FSA) on the EEC, which will serve as staff's testimony for the evidentiary hearings that will be held later this year. We request that your team provide comments on the EEC by October 8, 2007, which would allow us time to incorporate the FAA's input into our FSA without significantly delaying publication of the document.

If you have any questions about the Land Use and Traffic sections of the PSA please contact Shaelyn Strattan of my staff at (916) 651-0966 or by email at mstratta@energy.state.ca.us. If you have concerns about the schedule for the EEC please contact me via phone or email.

Sincerely,

Eric Knight

**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 09/28/2007)**

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

APPLICANT'S CONSULTANTS

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

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

COUNSEL FOR APPLICANT

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

INTERESTED AGENCIES

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

James Sorensen, Director
Alameda County Development Agency
224 West Winton Ave., Rm 110
Hayward CA 94544
james.sorensen@acgov.org
chris.bazar@acgov.org
eileen.dalton@acgov.org

Richard Winnie, Esq.
Alameda County Counsel
1221 Oak Street, Rm 463
Oakland, CA 94612
richard.winnie@acgov.org
susan.muranishi@acgov.org

Jesus Armas, City Manager
City of Hayward
777 B Street
Hayward, California 94541
jesus.armas@hayward-ca.gov
michael.sweeney@hayward-ca.gov

INTERVENORS

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

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, Maria Sergoyan, declare that on October 17, 2007, I deposited copies of the attached FAA Comments on Eastshore Energy Center in the United States mail at Sacramento, California 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.


Maria Sergoyan