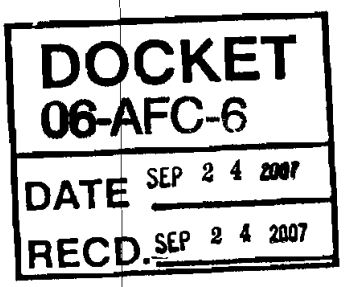
FREMONT BANK

Success through Partnership

September 24, 2007



Copy by Facsimile (bpfanner@energy.state.ca.us)
Original by Mail

California Energy Commission
Attention: Mr. William Pfanner
Project Manager
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512

Re: Eastshore Energy Center
Docket No. 06-AFC-6

Dear Commissioner Byron:

The purpose of this letter is to set forth some of the concerns that Fremont Bank has with regard to the proposed construction of an energy generating plant at the intersection of Clawiter and Depot in Hayward, California commonly referred to as the Eastshore Energy Center. We hereby request that this letter be entered on the docket in the above-referenced matter.

Fremont Bank's Operations Center is located at 25151 Clawiter in Hayward. The proposed Eastshore Energy Center and Fremont Bank's Operations Center share a common property boundary line, which is the southern boundary of the Eastshore Energy Center's property line and the northern boundary of Fremont Bank's property line.

Fremont Bank's Operations Center houses a total of 287 employees, of which 240 are located in its main building, which is immediately to the south of, and adjacent to, the Eastshore Energy Center, and another 47 employees in a second building, which is located directly across the street to the south of the bank's main building. A total of 186 of the employees are female and 101 are male.

Fremont Bank's primary concerns relate to (i) the noise level that will be generated by the Eastshore Energy Center, (ii) air quality and the possible exposure of its employees to hazardous materials and (iii) fire danger to its employees and its main building, which houses the bank's computers and records relating to its operations and its clients.

Noise

With regard to the noise level, the northern side of the bank's main building is only approximately 71 feet from the proposed project's southern boundary line. In the Preliminary Staff Assessment dated August 2007 ("PSA") the ambient noise monitoring

Corporate Headquarters 39150 Fremont Boulevard Fremont, CA 94538 Tel: (510) 792.2300

site designated as "Location R2" is described as being "Located at the southern property boundary of the proposed project side adjacent to the commercial building directly south of the site." (See PSA, pg. 4.6-5) However, in discussing the Construction Impact and Mitigation the PSA uses noise levels for Site R1, which is at 1,100 feet from the project site. Furthermore, at page 4.4-6 of the PSA it is stated that while the applicant provided noise estimates at a distance of 375 feet, staff has translated these figures into a predicted noise level at 1,100 feet, which is stated to be the "most sensitive receptor location". However, the PSA does not state the results of the applicant's noise estimate at 375 feet,which information would be a much better estimate of the noise level at Site R2. In addition, the PSA states that the increase in the noise level at Site R1 would be less than 5 dba, and would only occur during daytime hours. (See PSA, pg. 4.6-7). There is no statement as to the estimated increase in the noise level at Site R2. Furthermore, whereas Site R1 is a residential site, where presumably most of the inhabitants living at that site would not be present during the daytime hours when construction would be taking place, Fremont Bank's employees occupy the bank's Operations Center during the very same hours that construction would be ongoing. Because of the failure of the PSA to address the noise levels at the site of the bank's Operations Center, it is impossible to determine the impact of the increase in the noise level at that site. Accordingly, staff's conclusion, stated at page 4.6-7, that "the project construction will create less than significant adverse impacts at the most noise-sensitive receptor", is flawed.

In addressing the noise levels once the generating plant commences operations, the PSA states that "Project operating noise is predicted not to exceed 49 dBa at monitoring location R1 (representing the most sensitive residential receptors) during full load operation." (See PSA, pg. 4.6-8) Once again, the PSA is totally silent as to the predicted noise level at monitoring location R2. Therefore, it is impossible to determine the predicted noise level at the bank's Operations Center, which is the closest occupied building to the project site.

Air Quality And Exposure To Hazardous Materials

At page 4.1-22 of the PSA with regard to Construction Impacts and Mitigation it is stated that "maximum modeled project construction impacts are predicted to occur at the eastern fence line (Life Chiropractic College) and decreases rapidly with distance." Air Quality Table 15 demonstrates that during the construction phase the level of both PM10 and PM2.5 pollutants will be substantially in excess of the applicable standard. Furthermore, there is no estimate of the levels of the pollutants at the southern fence line where the bank's Operations Center is located. A similar issue exists with regard to Operational Impacts and Mitigation discussed commencing at page 4.1-23, wherein it is stated that the maximum modeled impacts are predicted to occur directly across Clawiter Road at the site of the Life Chiropractic College. (See PSA, pg. 4.1-25) Again, there is no discussion of the impact upon the site of the bank's Operations Center.

The failure to reveal the impact upon the bank's Operations Center is of particular concern given the fact that the PSA states in the last paragraph on page 4.1-24 as follows:

> Staff believes that particulate matter emissions from the project's routine operation would cause a significant impact because those emissions would contribute to existing violations of PM10 and PM2.5 ambient air quality standards. The particulate matter emissions can and should be mitigated to a level of insignificance. Significant secondary impacts would also occur for PM10 and PM2.5, and ozone because emissions of particulate matter precursors (including SOx) and ozone precursors (NOx and POC) would also contribute to existing violations of these standards. (Emphasis added)

The PSA also recognized that the project's particulate matter emissions would be cumulatively considerable because they will contribute to existing violations of the PM10 and PM2.5 ambient air quality standards. (See PSA, at pg. 4.1-33)

Fremont Bank is also concerned about the ability of the applicant to purchase emission reduction credits ("ERC"). While it is recognized that such credits can be obtained from sites located in the entire basin because the air quality is considered to be a regional issue, it is submitted that at least the greatest majority of ERC's should have to come from the local area that is impacted the most by the pollution to be caused by the operation of the project, as apparently recognized in the PSA. (See PSA, at page 4.1-43-44.

The presence of aqueous ammonia at the project site is of concern to Fremont Bank. Although it appears from the discussion commencing at page 4.4-8 of the PSA that all appropriate precautions to prevent a spill of aqueous ammonia will have to be taken, no system if full proof, and a spill at the site of the storage tank could have an adverse impact upon the bank's employees housed in the Operations Center.

Fire Danger

Ths PSA states at page 4.14-11 that "[f]ires and explosions of natural gas or other flammable gasses or liquids are rare." The fact that such events are rare does not mean that such events do not happen. It is submitted that a natural gas explosion at the project site would adversely impact not only the power plant, but surrounding sites as well, including, in particular, the bank's adjacent Operations Center. Such an explosion and the likely resulting fire at the site, as well as adjacent sites impacted by such an explosion, could overwhelm the ability of the Hayward Fire Department to effectively respond to such an emergency situation in sufficient time to minimize damage to adjacent sites, as well as to the project site.

As noted at page 4.14-3 of the PSA, the closest Hayward Fire Department station has only a single fire engine and three fire fighters available to respond to an emergency at the project site. As noted, the three closest stations have a total of only four fire

engines and one truck with 16 fire fighters available to respond to a situation at the project site.

As also noted at page 4.14 of the PSA, as of the date of the PSA "HFD Chief Larry Arfsten has indicated that his department is not yet sufficiently knowledgeable about the proposed project to fully discuss mitigation measures." As of September 6th, the date of the latest workshop held in Hayward, that situation had not changed.

In our opinion, it is imperative that the Hayward Fire Department address the issue of its ability to adequately respond to a major explosion and fire occurring at the project site in such a manner as to minimize the possible loss of life and property damage occurring at surrounding sites such as the bank's Operations Center.

In addition, it is submitted that before any action is taken to approve the construction of the project, information needs to be developed as to the extent of the adverse consequences to surrounding sites that could result from a major explosion and fire occurring at the project site, irregardless of the possibility of such an event taking place.

Conclusion

Under the present circumstances, it is the position of Fremont Bank that it opposes the construction of the Eastshore Energy Center at the proposed site.

Very Truly Yours

FREMONT BANK

By: Terrance L. Stinnett

Terrance L. Stinnett
General Counsel

cc: Greg Trewitt (greg.trewitt@tierraenergy.com)
David A. Stein, PE (dstein@ch2m.com)
Jane Luckhardt, Esq. (jluckhardt@downeybrand.com)
Caryn Holmes, Esq. (cholmes@energy.state.ca.us)
Michael Monasmith (pao@energy.state.ca.us)
Jesus Armas (jesus.armas@hayward-ca.gov)
Michael Sweeney (michael.sweeney@hayward-ca.gov)
Paul Haavik (lindampaulh@msn.com)
Hon. Pete Stark (petemail@mail.house.gov)

TLS:tls