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| DOCKET | |
| 06-AFC-6 | |
| DATE | FEB 04 2008 |
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MemorandumTo: **Hearing Officer Susan Geffer**

From: **Bill Pfanner** *Bill Pfanner*
California Energy Commission
 1516 Ninth Street
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Telephone: (916) 654-4206

Subject: **Comments on Eastshore Energy Center (06-AFC-6) Final Distances Table**

Hearing Officer Geffer:

Energy Commission staff has reviewed the draft measurements, prepared by the applicant and the City of Hayward, that identify the distance from the proposed Eastshore site to various locations in and around the Hayward area. Many of the applicant's measurements provide a relatively accurate approximation of the site's proximity to the identified locations. However, due to the size of the Eastshore site, as well as facilities such as Chabot College, Eden Gardens, and Ochoa Middle School campuses; Hayward Executive Airport, Alameda County Redevelopment planning areas, and Russell City Energy Center, measurements taken from the center of the Eastshore site to the center of these facilities may present an inaccurate impression of the project's proximity and potentially understate the project impacts. In other instances, use of site boundaries are more appropriate to accurately reflect areas of concern, such as those reflected in the FAA's recommendations to avoid overflight of the "site". These measurements also more accurately reflect the methods and results used by Energy Commission staff during the environmental analysis and preparation of the Preliminary and Final Staff Assessment and Evidentiary Hearing testimony.

Therefore, Energy Commission staff, as well as the County of Alameda, Group Petitioners, and Chabot-Las Positas Community College District, prepared responses to the draft. These delineated areas of agreement and identified measurements (or measurement methods) that were not acceptable to the various parties. For the most part, Energy Commission staff measurements agree with or were accepted by all parties except the applicant. Adjustments proposed by Alameda County, the Group Petitioners, and Chabot College are also acceptable to CEC Staff. However, none of these alternate measurements were incorporated in the applicant's final table (submitted by email to all parties on February 1, 2008).

Energy Commission staff have revised the original CEC Staff draft, incorporating input from all parties, including the applicant and City of Hayward, in the attached Table. Graphics supporting the measurements, or other sources, have been attached or referenced. The method of and justification for the calculations are discussed under 'Description'. Measurements where the applicant and CEC staff agree are marked with an *.

We concur with the applicant's assessment that agreement on the aviation distance measurements or calculation methods is unlikely, but there are other locations, such as the schools, residences, and planning areas listed above, where we also do not agree.

Finally, the applicant's discussion indicates that the area outside the six safety zone sectors is not considered to be a safety compatibility area. This description of the Safety Compatibility Zones is inappropriate, inaccurately represents the intent of the Zones,

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completely ignores the intent of the ALUPP General Referral Area designation and City of Hayward Municipal Code §10-6, and does not appropriately address the question posed by the Committee. Only the Traffic Pattern Zone was referenced in evidence and testimony, as it related to the City of Hayward's contention that the Traffic Pattern Zone and AAZP are synonymous. For clarity, it should be noted that Safety Compatibility Zones, as depicted in EEC FSA Land Use Figure 5, primarily address risks which aircraft accidents pose for people and property on the ground and the general design is loosely based on a nationwide accident distribution grid. A separate set of safety compatibility concerns involve land use characteristics which can cause an aircraft accident or contribute to its consequences for people on board the aircraft and are reflected in airport land use plans or policies, zoning codes, and federal regulations and advisories.

Bill Pfanner/Shaelyn Strattan

February 4, 2008

EASTSHORE ENERGY CENTER – DISTANCES IN QUESTION

Prepared by CEC Staff as of February 4, 2008

* Indicates measurements provided by the Applicant and acceptable to CEC Staff as a generally accurate representation of site proximity.

| Distances in Question per the request of Hearing Officer Geffer | Feet (rounded to the nearest foot) | Description |
|--|---------------------------------------|--|
| Distance of Eastshore to the Hayward Executive Airport | 5,606 feet | Distance measured from Eastshore site boundary to closest point of the Hayward Executive Airport property boundary. |
| Distance of Eastshore to the Oakland International Airport | 41,920* | Distance measured from center of Eastshore site to Oakland International Airport using reference points from City of Hayward, R. Baumann. |
| Distance of Eastshore from Hayward Airport airspace | 0 | The Eastshore site is within the boundaries of the Hayward Airport airspace (EEC FSA, Exh. 200, Land Use Figures 4 & 6). Hayward's Class D/E airspace extends from the surface to 1,500 feet msl. |
| Hayward Airport takeoff and landing flight patterns | 0 | There is no quantifiable boundary to a traffic pattern for any airport. The traffic pattern, as defined in the FAA Pilot/Controller Glossary (http://www.faa.gov/airports_airtraffic/air_traffic/publications/ATpubs/PCG/T.HTM), is the traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach. Aircraft generally enter and depart the traffic flow for the Hayward airport approximately 1-2 miles from the airport, at altitudes below 1,000 feet msl. Most aircraft enter the traffic pattern in this general vicinity, which includes locations immediately over the EEC site (Exhibits 417 & 418). |
| Hayward Airport Traffic Pattern Zone | 279 | Distance measured from Eastshore site boundary to closest point of the Traffic Pattern Zone (EEC FSA, Exh. 200, Land Use Figure 5). The Traffic Pattern Zone depicts an approximate one-mile radius from the primary runway (Runway 10R/28L). The EEC site boundary was used because proposed FAA flight restrictions for flights over power plants apply to the site, not just the stacks. |
| Hayward Airport Zoning Plan (AAZP) area and Alameda County ALUPP General Referral/Hazard Prevention Zone | 0 | The Eastshore site is within the boundaries of the Hayward AAZP area (EEC FSA Traffic & Transportation Figure 6) and the ALUPP General Referral/Hazard Prevention Zone (aka Airport Influence Area) (EEC FSA Land Use Figure 3) |
| Distance of Eastshore from Oakland International Airport airspace | 0 | The Eastshore site is within the boundaries of the Oakland Airport airspace (EEC FSA, Exh. 200, Land Use Figure 4). Oakland's Class C airspace overlies the Hayward airspace and extends from 1,500 feet msl to 3,000 feet msl. |

| Distances in Question per the request of Hearing Officer Gefter | Feet (rounded to the nearest foot) | Description |
|---|---------------------------------------|---|
| Hospitals | 3,192 | Distance measured from Eastshore site boundary closest to Anthony w. Ochoa School boundary (per measurement provided by Group Petitioners/Google Earth). |
| | 5,624* | Distance measured from center of Eastshore site to center of Lea's Montessori located at 26236 Adrian Avenue. |
| | 7,977* | Distance measured from center of Eastshore site to center of Kaiser Hospital. |
| | 7,559* | Distance measured from center of Eastshore site to center of Kaiser Medical Center. |
| | 9,636* | Distance measured from center of Eastshore site to center of St. Rose Hospital. |
| | 3,218* | Distance measured from center of Eastshore site to center of Eden West Convalescent Hospital. |
| Office buildings | 0 | Fremont Bank Operations Center is located on adjoining property, immediately adjacent to the Eastshore site's southern boundary. |
| Commercial entities | 0 | Service Station (gas card facility) located on adjoining property, immediately adjacent to the Eastshore site's northwest boundary. |
| Industrial entities | 0 | Warehouse and light industrial facilities located on adjoining property, immediately adjacent to the Eastshore site's north and west boundaries. (see FSA, Exhibit 200, Land Use section, p. 4.5-25 re "Sensitive Receptors"; see Applicant's Distance Table for additional commercial & industrial locations) |
| Height of existing industrial stacks within the AAZP area | 180* | Rohm & Haas (single stack) |
| | 228* | KFAX radio broadcast antennae |
| Current zoning height limitations | | The AAZP (EEC FSA, Exh. 200, Traffic and Transportation Figure 6) |

| Distances in Question per the request of Hearing Officer Geffer | Feet (rounded to the nearest foot) | Description | | | | | | | | | | | | | | | | |
|--|--|---|--------------------|-------------------|--|---|--|---|---|---|--|---|-------------------------------------|---|--------------------------------|---|---------------------------|--|
| | | <p>encompasses nine zoning district designations (EEC FSA, Exh. 200, Land Use Figure 2). The EEC site is within the Industrial zoning district and there are no height restrictions within the City of Hayward Zoning Code for that area. Height limitations for the remaining zoning districts are as follows:</p> <table border="1" data-bbox="968 370 1881 1154"> <thead> <tr> <th data-bbox="968 370 1329 415">Zoning Designation</th> <th data-bbox="1329 370 1881 415">Height Limitation</th> </tr> </thead> <tbody> <tr> <td data-bbox="968 415 1329 496">Single Family Residential (HMC §10-1.235)</td> <td data-bbox="1329 415 1881 496">Maximum Bldg. Height: 30 feet Max. Accessory Bldg. Height: 14 feet/1 story</td> </tr> <tr> <td data-bbox="968 496 1329 578">Medium Density Residential. (HMC §10-1.235)</td> <td data-bbox="1329 496 1881 578">Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story</td> </tr> <tr> <td data-bbox="968 578 1329 659">High Density Residential (HMC §10-1.535)</td> <td data-bbox="1329 578 1881 659">Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story</td> </tr> <tr> <td data-bbox="968 659 1329 805">Planned Development (HMC §10-1.535)</td> <td data-bbox="1329 659 1881 805">Standards of the zoning district and other applicable plans, guidelines, and the General Plan governing uses most similar in nature and function to the uses proposed in the PD District.</td> </tr> <tr> <td data-bbox="968 805 1329 886">Mobile Home Park (HMC §10-1.735)</td> <td data-bbox="1329 805 1881 886">Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story</td> </tr> <tr> <td data-bbox="968 886 1329 967">Flood Plan (HMC §10-1.2135)</td> <td data-bbox="1329 886 1881 967">Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 26 feet</td> </tr> <tr> <td data-bbox="968 967 1329 1154">Other (HMC §10-1.2135)</td> <td data-bbox="1329 967 1881 1154">Alameda County jurisdiction; subject to Alameda County standards for the zoning district and other applicable plans, guidelines, and the General Plan; as well as compatibility with surrounding City of Hayward properties.</td> </tr> </tbody> </table> <p>The EEC site is within the boundaries of the Hayward airport conical zone (EEC FSA Land Use Figure 6). Restrictions imposed by the FAA (14 CFR 77) limit the height of obstructions within this zone, but only apply to physical structures, such as the stacks of the Eastshore facility.</p> | Zoning Designation | Height Limitation | Single Family Residential (HMC §10-1.235) | Maximum Bldg. Height: 30 feet Max. Accessory Bldg. Height: 14 feet/1 story | Medium Density Residential. (HMC §10-1.235) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | High Density Residential (HMC §10-1.535) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | Planned Development (HMC §10-1.535) | Standards of the zoning district and other applicable plans, guidelines, and the General Plan governing uses most similar in nature and function to the uses proposed in the PD District. | Mobile Home Park (HMC §10-1.735) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | Flood Plan (HMC §10-1.2135) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 26 feet | Other (HMC §10-1.2135) | Alameda County jurisdiction; subject to Alameda County standards for the zoning district and other applicable plans, guidelines, and the General Plan; as well as compatibility with surrounding City of Hayward properties. |
| Zoning Designation | Height Limitation | | | | | | | | | | | | | | | | | |
| Single Family Residential (HMC §10-1.235) | Maximum Bldg. Height: 30 feet Max. Accessory Bldg. Height: 14 feet/1 story | | | | | | | | | | | | | | | | | |
| Medium Density Residential. (HMC §10-1.235) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | | | | | | | | | | | | | | | | | |
| High Density Residential (HMC §10-1.535) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | | | | | | | | | | | | | | | | | |
| Planned Development (HMC §10-1.535) | Standards of the zoning district and other applicable plans, guidelines, and the General Plan governing uses most similar in nature and function to the uses proposed in the PD District. | | | | | | | | | | | | | | | | | |
| Mobile Home Park (HMC §10-1.735) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 14 feet/1 story | | | | | | | | | | | | | | | | | |
| Flood Plan (HMC §10-1.2135) | Maximum Bldg. Height: 40 feet Max. Accessory Bldg. Height: 26 feet | | | | | | | | | | | | | | | | | |
| Other (HMC §10-1.2135) | Alameda County jurisdiction; subject to Alameda County standards for the zoning district and other applicable plans, guidelines, and the General Plan; as well as compatibility with surrounding City of Hayward properties. | | | | | | | | | | | | | | | | | |
| Number of Conditional Use Permits (CUPs) granted to allow the height variances in the AAZP area. | 0 | Since there is no City of Hayward zoning code height restriction for the Industrial Zoning District, CUPs or variances based on proposed structural heights would not be required. The number of CUPs or variances applied for or | | | | | | | | | | | | | | | | |

| Distances in Question per the request of Hearing Officer Geffer | Feet (rounded to the nearest foot) | Description |
|---|---|--|
| Oakland Airport's takeoff and landing flight patterns | | As noted above, there is no quantifiable boundary to a traffic pattern for any airport. However, flights arriving/departing high intensity Runway 11/29 fly directly over the Hayward Airport at altitudes at or above 1,500 feet msl. |
| Distance of Eastshore from Russell City Energy Center (RCEC) site | 2,942 | Distance measured from the Eastshore western site boundary to the RCEC eastern site boundary. |
| Distance of Eastshore from Chabot College campus (include size of the campus) | 2,826 | Distance measured from the Eastshore site boundary to the closest point of the Chabot College campus boundary. Due to the size of Chabot College (approximately 90+ acres), measurements taken from the center of the EEC site to the campus center would minimize the proximity of the college and potentially understate the project's impacts. |
| Distance of RCEC from Chabot College campus | 6,762 | Distance measured from the RCEC site boundary to the closest point of the Chabot College campus boundary. |
| Location of Chabot College campus center relative to RCEC and Eastshore | N/A | Generally northeast of both RCEC and Eastshore. The Eastshore facility would sit approximately midway between the RCEC and Chabot College. |
| Distance of Eastshore from Alameda County's Redevelopment Agency's nearest projects | 1,115 | Distance measured from the eastern Eastshore site boundary to closest Alameda County Redevelopment County project area boundary (per Mt. Eden Redevelopment Sub-Area Distances map, provided by the County of Alameda; Jan. 31, 2008). |
| Distance of Eastshore from nearest: Residences Schools | 1,120 2,171 919* 4,769* 3,664 | Distance measured from closest Eastshore site boundary to closest residential lot boundary at 2765 Depot Road (distance is approximate/Google Earth). Distance measured from Eastshore eastern site boundary to western boundary of Waterford Apartment complex (per measurement provided by Group Petitioners/Google Earth). Distance measured from center of Eastshore site to center of Life Chiropractic College. Distance measured from center of Eastshore site to center of ITT Technical Institute. Distance measured from Eastshore site boundary closest to Eden Gardens School boundary (per measurement provided by Group Petitioners/Google Earth). |

| Distances in Question per the request of Hearing Officer Geftter | Feet (rounded to the nearest foot) | Description |
|--|--|--|
| | | granted for other zoning districts was not applicable to the proposed project site and was not addressed. |
| Height and number of RCEC exhaust stacks and distance of RCEC from Hayward Executive Airport | 2@145 ft | There are two 145-foot tall exhaust stacks associated with the RCEC project. The distance from the center of the RCEC site to the Hayward Executive Airport is 9569 feet (measured based upon the runway end coordinates provided by R. Baumann, City of Hayward). |

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 1/18/2008)

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, Christina Flores, declare that on February 4, 2008, I deposited copies of the attached Comments on Eastshore Energy Center (06-AFC-6) Final Distances Table 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.


Christina Flores