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<b>DOCKET</b>	
<b>06-AFC-6</b>	
DATE	JAN 10 2008
RECD.	JAN 11 2008

STATE OF CALIFORNIA  
STATE ENERGY RESOURCES  
Conservation and Development Commission

In the Matter of:

Docket No.: 06-AFC-6

APPLICATION FOR CERTIFICATION FOR  
THE EASTSHORE ENERGY CENTER

**DECLARATION OF TERRY PRESTON  
ON BEHALF OF SAN FRANCISCO BAY  
CHAPTER OF SIERRA CLUB**

Date: Jan. 14, 2008  
Location: Hayward City Hall  
Council Chambers  
Time: 10 a.m.

1. Terry Preston, hereby declare:

1. I am a resident of the Fairview District, part of the unincorporated area of Alameda County. Up until the end of my most recent term, January 1, 2008, I have been a member of the Executive Committee for the Southern Alameda Chapter for the San Francisco Bay Chapter of the Sierra Club since approximately 2003. I have personal knowledge of the facts set forth below and if called as a witness in this matter, would and could testify competently to the following

2. On December 17, 2007, I wrote Commissioners John Geesman and Jeffrey Byron members of the Evidentiary Committee of the California Energy Commission's concerning the application to certify the proposed project known as the Eastshore Energy. Attached is a true and

correct copy of my letter to Commissioners Geesman and Byron concerning the Sierra Club's objections to this project and the inadequacies of the Final Staff Assessment.

3. My attached letter represents the San Francisco Bay Chapter's opinion and position on this application.

I declare under penalty of perjury that the foregoing is true and correct. Executed this day of January, 2008, in Hayward, California.

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Terry Preston



SIERRA  
CLUB

Sacramento Bay Chapter

1000 California Street, Suite 1000, San Francisco, CA 94109

To: Committee Members John Geesman and Jeffrey Byron  
Re: A/C Docket # 06/AFC-6

Dear Commissioners,

The Southern Alameda County Group of the Sierra Club is opposed to the proposed Eastshore Power Plant.

Russell City and Eastshore plants will be used as peaker plants. Although Russell City is designed as a baseload it is being permitted to operate as a peaker plant.

The cumulative impacts have not been adequately addressed. There has been no hot spot analysis of the Russell City plant as a peaker plant. Under cumulative impacts this is significant. Both Eastshore and Russell City will be operated as peaker plants, which produce far more toxins than the baseload plants.

The Hayward area has already had annual exceedences of the 24 hour federal standard. To offset this they are using emission reduction credits which has no relation to the impact on the environment and citizens in the Hayward area. We believe that this project does not meet the standards and criteria of AB32.

Natural gas and diesel are the two highest contributors to the mutagenicity of the mix of urban particulate matter.<sup>1</sup> Yet no health standard for natural gas particulates has been provided.

There is no adequate cumulative impact analysis of other toxin producers in the area. The area includes several major traffic arterials including two major highways and many industrial roads traveled heavily by diesel operated vehicles. In addition there is an airport. Cumulative impacts should include the existing conditions along with those produced by the proposed project.

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<sup>1</sup> Hannigan M.P., Busby W.F., Cass GR. Source Contributions to the Mutagenicity of Urban Particulate Air Pollution. Journal of the Air and Waste Management Assn. April 2005

Acrolein, a highly toxic air contaminant is a toxin that will be produced by the proposed power plant. It is by far the most acute hazard of natural gas. Acrolein is a major lung cancer agent in cigarettes.<sup>2</sup> Acrolein can cause exacerbation of asthma, tearing, and irritation of mucous membranes. It is a priority substance identified by the Children's Environmental Health Act. It is listed as a toxin at the federal and state level. Eastshore was exempted from the analysis of acrolein toxins because the State decertified its testing method due to underestimation of toxin levels. Yet the federal EPA does have a test (FTIR) that is certified and available and should be used to assess the levels and impacts of this highly toxic chemical before this project can be considered.

The FTIR method is a highly accurate test method. We find it disturbing that CARB does not require the EPA method, a method required by federal standards. The CEC is required to evaluate the risk for it because it is still in the California law. Using the best available science (FTIR) is paramount when considering a project that will threaten the health of the public. It is not a public benefit to fail to measure a toxic substance when an adequate and accurate test is available from the federal EPA.

State policy is to aggressively reduce emissions of greenhouse gases such that total emissions are back to 1990 levels by 2020. This directive by Governor Schwarzenegger (Executive Order S-3-05) will be virtually impossible to meet so long as new CO<sub>2</sub>-emitting power plants are permitted. Combustion of fossil fuels is responsible for 81% of State greenhouse gas emissions.<sup>3</sup>

It is the policy of this state to reduce our dependence on natural gas.<sup>4</sup> It will be impossible to meet this EO S-3-05 directive with continued approval of more CO<sub>2</sub> emitting plants. "Efficiency and renewable resources are top priorities in California's electricity loading order policy." The CEC concluded that "Reducing demand for energy is the most effective way to reduce energy costs and bolster California's economy. It would be far more logical and efficient to avoid construction of new plants that rely upon a toxic, dwindling and precarious source of energy. It serves the public benefit to supply the residual power that cannot be met by demand reduction with solar energy.

A high population of youth, elderly and people with respiratory conditions live in or utilize the area. The Hayward Regional Shoreline, an area used for education and recreation is nearby. Although the wind blows predominately from the west, there are

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<sup>2</sup> Zhaohui Feng, Wenwei Hu, Yu Hu and Moon-shong Tang. Acrolein is a major cigarette-related lung cancer agent: Preferential binding at p53 mutational hotspots and inhibition of DNA repair. PNAS, Oct. 2006

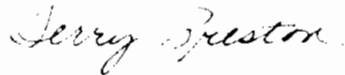
<sup>3</sup> California Energy Commission, *2006 Integrated Energy Policy Report Update*, CEC Report #100-2006-001-CTD, November 2006

<sup>4</sup> California Energy Commission, *2003 Integrated Energy Policy Report*, CEC Report #100-03-019, December 2003

stagnant air days without winds and there are days with winds blowing from the east. On those days, toxins (including ammonia) from the plant will settle into a highly sensitive habitat along the Hayward Shoreline.

We are concerned about the incomplete analysis of impacts throughout the report. Often the analysis is limited to direct impacts and does not address indirect impacts. Indirect impacts must be analyzed, especially when addressing the impacts to biological resources. For example: the impacts of the plant on local or migratory wildlife must include loss of habitat or food sources. It cannot be limited to disturbance during construction. In addition the CNDDDB should not be used as a reference for the utilization of the area by wildlife. The CNDDDB is based on reporting only. Surveys, ideally over a period of several years will give a more accurate assessment of the species that utilize the area. We believe that given the close proximity to a threatened habitat (bay marshland and associated habitats) a more thorough analysis should be conducted. Since the project is located in close proximity to a migratory flyway and major stopover for these federally protected birds where is the in depth analysis of the impact on birds? We have seen the impact on aircraft flying over the plume but the report lacks information on the potential impacts to federally protected birds.

Sincerely,

A handwritten signature in cursive script that reads "Terry Preston".

Terry Preston  
Executive Committee Member  
Southern Alameda County Chapter  
Sierra Club