

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION AND  
DEVELOPMENT COMISSION

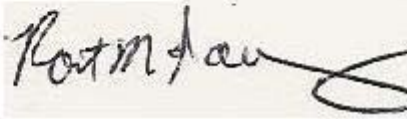
In the Matter of the  
Eastshore Energy Center

)  
)  
)  
)

Docket # 06-AFC-6  
Intervenor Sarvey's Comments  
on the RPMPD

<b>DOCKET</b>	
<b>06-AFC-6</b>	
DATE	<u>OCT 01 2008</u>
RECD.	<u>OCT 02 2008</u>

10-1-06



\_\_\_\_\_  
Date

## Comments on the RPMPD

On August 29, 2008 the Presiding Member issued a revised PMPD. Intervenor Sarvey has the following comments on the revised PMPD.

The Eastshore project violates the newly approved NO<sub>2</sub> standard. On February 19, 2008 the office of administrative law approved the new NO<sub>2</sub> standard which went into effect on March 20, 2008 long before this project was approved. (<http://www.arb.ca.gov/research/aags/no2-rs/no2-rs.htm>)

The RPMPD states on page 5 that CEC staff provided testimony indicating that the project would comply with the new standard. The Revised PMPD should be corrected to reflect that CEC staff has not agreed with the applicant's analysis that the project complies with the new NO<sub>2</sub> standard. Finding and Conclusion 24 on page 156 of the Revised PMPD should be corrected to indicate that staff did not supply testimony demonstrating that the project would comply with the new standard. Finding 24 should clarify that staff's testimony demonstrated that the project would not comply with the new NO<sub>2</sub> standard. (Exhibit 200 page 4.1-23 Air Quality Table 16) Air Quality table 16 in the revised PMPD has been modified based on testimony from the applicant and does not reflect CEC Staff's testimony. CEC Staff's analysis shows a violation of the State NO<sub>2</sub> standard as demonstrated from staffs testimony in Air Quality Table 16 from exhibit 200 displayed below.

**AIR QUALITY Table 16**  
**Eastshore, Routine Operation Maximum Impacts ( $\mu\text{g}/\text{m}^3$ )**

Pollutant	Averaging Time	Modeled Impact	Background	Total Impact	Limiting Standard	Percent of Standard
PM10	24 hour	27.5	56.6	84.1	50	168
	Annual	3.1	20.0	23.1	20	116
PM2.5	24 hour	17.0	43.9	60.9	35	174
	Annual	3.1	9.4	12.5	12	104
CO	1 hour	454.5	3,680	4,135	23,000	18
	8 hour	374.3	2,178	2,552	10,000	26
NO <sub>2</sub>	1 hour	314.3	143	457.3	470	97
	Annual	3.2	28	31.2	100	31
SO <sub>2</sub>	1 hour	7.4	102	109.4	655	17
	24 hour	4.8	24	28.8	105	27
	Annual	0.5	8	8.5	80	11

Source: AFC Table 8.1-34 and Table WKS 4-5 (May 4, 2007; with PM10/PM2.5 revised by staff). PM2.5 is 3-year average of maximum 8th highest (for 98<sup>th</sup> percentile) 24-hour impact. Includes routine start-up and shutdown events per AFC Table 8.1B-2.

Additionally staff's analysis and the applicant's analysis demonstrate that the project's PM-10 impacts violate the State Annual PM-10 Standard and the projects PM 2.5 impacts violate the Federal Annual PM 2.5 standard. The Revised PMPD should be amended to include staff's (Exhibit 200 page 4.1-23)

testimony and the applicant's testimony (Exhibit 1, Table 8.1-34 AFC page 8.1-56) presented below.

**TABLE 8.1-34**  
Maximum Modeled Criteria Pollutant Concentrations

Pollutant	Avg. Period	Max. <sup>a</sup> Concentration (µg/m <sup>3</sup> )	Max. Year	Background (µg/m <sup>3</sup> )	Total (µg/m <sup>3</sup> )	Class II Significance Level (µg/m <sup>3</sup> )	BAAQMD SILs (µg/m <sup>3</sup> )	Ambient Air Quality CAAQS/NAAQS (µg/m <sup>3</sup> )	
NO <sub>2</sub>	1-hour	314.28	1990	143.0	457.28	-	19	470	-
	Annual	3.22	1990	32.0	35.22	1	1	-	100
PM <sub>10</sub> <sup>1</sup>	24-hour	49.76	1992	51.7	101.46	5	5	50	150
	Annual	5.46	1990	18.1	23.56	1	1	20	50
PM <sub>2.5</sub> <sup>1</sup>	24-hour	49.76	1992	39.9	89.66	5	5	-	65
	Annual	5.46	1990	9.4	14.86	1	1	12	15
CO	1-hour	454.51	1990	3680.0	4,134.5	2000	2000	23,000	40,000
	8-hour	374.34	1993	2178.0	2,552.3	500	500	10,000	10,000
SO <sub>2</sub>	1-hour	7.35	1990	102.2	109.55	-	-	655	-
	3-hour	7.21	1990	49.4	56.61	25	25	1300	1,300
	24-hour	4.81	1992	23.5	28.31	5	5	105	365
	Annual	0.52	1990	8.0	8.52	1	1	-	80

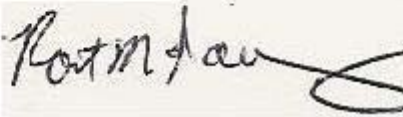
### Conclusion

The RPMPD needs to be amended to include the true significant and unmitigated health impacts from this project which are the violation of the State's 1 hour NO<sub>2</sub> Standard, the State's Annual PM-10 Standard, and the Federal Annual PM 2.5 standard. These violations of state and federal ambient air quality standards remain undisputed in the record and provide the basis for denial of the project.

**DECLARATION OF SERVICE**

I, Robert Sarvey , declare that on 10-1-08 I transmitted electronic copies of the attached Comments on the RPMPD of Robert Sarvey addressed to those identified on the Proof of Service list below 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.

A photograph of a handwritten signature in black ink on a light-colored surface. The signature is cursive and appears to read "Robert Sarvey".

Robert Sarvey  
501 W. Grantline Rd  
Tracy, Ca 95376

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:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 06-AFC-6  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto: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](mailto:greg.trewitt@tierraenergy.com)

Harry Rubin, Executive Vice President  
RAMCO Generating Two  
1789 Orvietto Drive  
Roseville, CA 95681  
[hmrenergy@msn.com](mailto:hmrenergy@msn.com)

**COUNSEL FOR APPLICANT**

**APPLICANT'S CONSULTANTS**

David A. Stein, PE  
Vice President  
CH2M HILL  
155 Grand Avenue, Suite 1000  
Oakland, CA 94612  
[dstein@ch2m.com](mailto:dstein@ch2m.com)

Jane Luckhardt, Esq.  
Downey Brand Law Firm  
555 Capitol Mall, 10th Floor  
Sacramento, CA 95814  
[jluckhardt@downeybrand.com](mailto:jluckhardt@downeybrand.com)

**INTERESTED AGENCIES**

Jennifer Scholl  
Senior Program Manager  
CH2M HILL  
610 Anacapa Street, Suite B5  
Santa Barbara, CA 93101  
[jscholl@ch2m.com](mailto:jscholl@ch2m.com)

Larry Tobias  
CA Independent System Operator  
151 Blue Ravine Road  
Folsom, CA 95630  
[ltobias@caiso.com](mailto:ltobias@caiso.com)

**INTERVENORS**

Greg Jones, City Manager  
Maureen Conneely, City Attorney  
City of Hayward  
777 B Street  
Hayward, California 94541  
[greg.jones@hayward-ca.gov](mailto:greg.jones@hayward-ca.gov)  
[michael.sweeney@hayward-ca.gov](mailto:michael.sweeney@hayward-ca.gov)  
[maureen.conneely@hayward-ca.gov](mailto:maureen.conneely@hayward-ca.gov)  
[david.rizk@hayward-ca.gov](mailto:david.rizk@hayward-ca.gov)

Pillsbury Winthrop Shaw Pittman LLP.  
Att: Diana Graves, Esq  
Att: Michael Hindus, Esq  
50 Fremont Street  
San Francisco, CA 94120  
[diana.graves@pillsburylaw.com](mailto:diana.graves@pillsburylaw.com)  
[michael.hindus@pillsburylaw.com](mailto:michael.hindus@pillsburylaw.com)  
[ronald.vanbuskirk@pillsburylaw.com](mailto:ronald.vanbuskirk@pillsburylaw.com)

Paul N. Haavik  
25087 Eden Avenue  
Hayward, CA 94545  
[lindampaulh@msn.com](mailto:lindampaulh@msn.com)

James Sorensen, Director  
Alameda County Development Agency  
Att: Chris Bazar & Cindy Horvath  
224 West Winton Ave., Rm 110  
Hayward CA 94544  
[james.sorensen@acgov.org](mailto:james.sorensen@acgov.org)  
[chris.bazar@acgov.org](mailto:chris.bazar@acgov.org)  
[cindy.horvath@acgov.org](mailto:cindy.horvath@acgov.org)

Charlotte Lofft & Susan Sperling  
Chabot College Faculty Association  
25555 Hesperian Way  
Hayward, CA 94545  
[clofft@chabotcollege.edu](mailto:clofft@chabotcollege.edu)  
[ssperling@chabotcollege.edu](mailto:ssperling@chabotcollege.edu)

Law Office of Jewell J. Hargleroad  
Jewell J. Hargleroad, Esq  
1090 B Street, No. 104  
Hayward, CA 94541  
[jewellhargleroad@mac.com](mailto:jewellhargleroad@mac.com)

Jay White, Nancy Van Huffel,  
Wulf Bieschke, & Suzanne Barba  
San Lorenzo Village Homes Assn.  
377 Paseo Grande  
San Lorenzo, CA 94580  
[jwhite747@comcast.net](mailto:jwhite747@comcast.net)  
[slzvha@aol.com](mailto:slzvha@aol.com)  
[wulf@vs-comm.com](mailto:wulf@vs-comm.com)  
[suzbarba@comcast.net](mailto:suzbarba@comcast.net)

Richard Winnie, Esq.  
Alameda County Counsel  
Att: Andrew Massey, Esq.  
1221 Oak Street, Rm 463  
Oakland, CA 94612  
[richard.winnie@acgov.org](mailto:richard.winnie@acgov.org)  
[andrew.massey@acgov.org](mailto:andrew.massey@acgov.org)

\* Libert Cassidy Whitmore  
Att: Laura Schulkind, Esq.  
Att: Arlin B. Kachalia, Esq.  
153 Townsend Street, Suite 520  
San Francisco, CA 94107  
[lschulkind@lcwlegal.com](mailto:lschulkind@lcwlegal.com)  
[akachalia@lcwlegal.com](mailto:akachalia@lcwlegal.com)

Robert Sarvey  
501 W. Grantline Rd  
Tracy, CA, 95376  
[Sarveybob@aol.com](mailto:Sarveybob@aol.com)

**ENERGY COMMISSION**

Jeffrey D. Byron, Presiding Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

John L. Geesman, Associate Member  
[jgeesman@energy.state.ca.us](mailto:jgeesman@energy.state.ca.us)

Susan Gefter, Hearing Officer  
[sgefter@energy.state.ca.us](mailto:sgefter@energy.state.ca.us)

Bill Pfanner, Project Manager  
[bpfanner@energy.state.ca.us](mailto:bpfanner@energy.state.ca.us)

Caryn Holmes, Staff Counsel  
[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)

Public Adviser  
[pao@energy.state.ca.us](mailto:pao@energy.state.ca.us)