



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

DOCKET

08-AFC-3

DATE JUN 28 2010

RECD. JUN 28 2010

APPLICATION FOR CERTIFICATION FOR THE
**MARSH LANDING GENERATING STATION
PROJECT**

DOCKET No. 08-AFC-3

COMMITTEE ORDER DENYING PETITION TO INTERVENE

Upon consideration of the Petition to Intervene filed by Petitioner Local Clean Energy Alliance (“Petitioner”), the Committee designated to conduct proceedings in this matter makes the following findings:

1. A Petition to Intervene, dated June 21, 2010, was filed in the above-captioned proceeding by:

**The Local Clean Energy Alliance
Rory Cox
c/o Bay Localize
436 14th Street, Suite 1216
Oakland, CA 94612
Tel: (510) 834-0420
RCox@pacificenvironment.org**

2. The Petition, contains the information required by section 1207 of the Commission’s regulations (Cal. Code Regs., tit. 20, § 1207);
3. Commission Staff and the Applicant filed objections to the Petition on the grounds that it was untimely and good cause for the late filing was not shown;
4. Petitioner's interests are relevant to the above-captioned proceeding;
5. The Petition is untimely in that it was filed after the deadline set forth in section 1207(b) -- no later than the Prehearing Conference or 30-days before the start of evidentiary hearings, whichever is earlier. That deadline was June 1, 2010 and was clearly stated in the May 26, 2010 Notice of Prehearing Conference and Evidentiary Hearing. The Petition was filed on June 21, 2010, the deadline for the filing of testimony by Commission Staff and parties other than the Applicant and a mere 10 days before the evidentiary hearings; and

6. Petitioner has not shown good cause for allowing its late filed Petition. It participated in Bay Area Air Quality Management District proceeding relating to the project. It could have petitioned to intervene at any point in this proceeding, which has been active since September, 2008. Petitioner's assertion that it can wait until after a supplement to a Staff Assessment to decide whether to intervene is contrary to Section 1207(b)'s requirements. As a certified regulatory program, the Energy Commission is relieved from the requirement to prepare draft and final EIR equivalent documents. As such, Petitioner's comparisons of the Revised Staff Assessment to a draft EIR are irrelevant. As early as the February 17, 2010, Staff Status Report, followed by the April 15 Staff Status Report and then the April Staff Assessment, Staff's intent to publish a single Staff Assessment, followed by a Staff Workshop, publication of any necessary revisions to the Staff Assessment, and then Committee proceedings has been evident.

THEREFORE, the Committee **ORDERS** that the Petition to Intervene in this matter be **DENIED**. Petitioner may, as a member of the public, present public comments prior to or during the evidentiary hearings but cannot present evidence, cross-examine witnesses, or exercise any other privilege available to formal parties in this proceeding.

Dated June 28, 2010, at Sacramento, California.

Original signed by: _____

JAMES D. BOYD

Vice Chair and Presiding Member
Marsh Landing AFC Committee

Original signed by: _____

KAREN DOUGLAS

Commissioner and Associate Member
Marsh Landing AFC Committee



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**APPLICATION FOR CERTIFICATION
FOR THE MARSH LANDING
GENERATING STATION**

Docket No. 08-AFC-3

**PROOF OF SERVICE
(Revised 6/21/2010)**

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DECLARATION OF SERVICE

I, Maggie Read, declare that on June 28, 2010, I served and filed copies of the attached Committee Order Denying Petition to Intervene. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[<http://www.energy.ca.gov/sitingcases/marshlanding/index.html>].

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery;

by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

For filing with the Energy Commission:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-3

1516 Ninth Street, MS-4

Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Original signed by:
Maggie Read
Hearing Adviser's Office