

# Memorandum

Date: March 27, 2007  
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To: Commissioner Jeffrey Byron, Presiding Member  
Commissioner John Geesman, Associate Member

From: California Energy Commission – Lorne C. Prescott  
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<b>DOCKET</b>	
<b>06-AFC-6</b>	
DATE	MAR 27 2007
RECD.	MAR 27 2007

Subject: **EASTSHORE ENERGY CENTER (06-AFC-6) STATUS REPORT 2**

Pursuant to the Committee Scheduling Order dated February 2, 2007, the following is staff's Status Report 2 for the proposed Eastshore Energy Center (Eastshore).

## Recent Events and Milestones

- March 2, 2007, Receipt of Eastshore Energy Center responses to Data Request Set #2
- March 2, 2007, staff published Data Request Set #3. Focus areas were: Alternatives, Land Use, Traffic & Transportation and Waste Management
- March 19, 2007, Data Response and Issues Resolution Workshop #2 conducted in Hayward

## Current Issues and Activities for Resolution

Staff is currently proceeding with the discovery and analysis portions of the Commission's review of the Eastshore Application for Certification (AFC). At this time the primary areas of concern are Air Quality, Land Use, Traffic and Transportation, and Worker Safety and Fire Protection. Additionally, several concerns in the areas of Alternatives and Transmission System Engineering have recently emerged from the public and local agencies that will contribute to the complexity of staff's completing the Preliminary Staff Assessment (PSA) and the Final Staff Assessment (FSA). Factors associated with these areas will ultimately impact staff's ability to adhere to the Committee's Initial Schedule. Details are provided as follows:

### Air Quality

Brian Lusher, representative of Bay Area Air Quality Management District (BAAQMD), reported at the March 19, 2007, workshop that the anticipated release of the District's Preliminary Determination of Compliance (PDOC) has been delayed from late March to mid-April.

Staff's review of the PM10/PM2.5 emissions mitigation cannot be completed until Eastshore files a "mutually acceptable mitigation plan reflective of local air quality improvement goals" (as offered in the response to Data Response #7). Staff identified a need for such a plan at the January 29 workshop and again at the March 19 workshop. Similarly, staff's review of the cumulative air quality analysis cannot commence until a complete response to Data Request #17 is provided, as was noted in the January 29 workshop and again at the March 19 workshop.

Staff's development of the Preliminary Staff Assessment (PSA) is dependent upon timely receipt of the information noted above and will be impacted by the late release of the PDOC. Specific impacts to the overall schedule are addressed below.

**Land Use - Comformity with City of Hayward Laws, Ordinances, Regulations, and Standards (LORS)**

On March 13, 2007, the City of Hayward (City) Council voted unanimously that the Eastshore Energy Center is not consistent with the General Plan or the Industrial Zoning District. The area is currently classified as an "Industrial Corridor" in the General Plan, and the site is zoned Industrial. The City Council's opinion is based in part on a revision to the general plan in 2002 that was intended to promote technology-based businesses in the area of the proposed plant. City staff reported to the Council their belief that the project would be more appropriately sited further west in the Industrial Corridor, nearer the proposed Russell City Energy Center.

The City Council in 2001, upon a recommendation from the Planning Commission, determined that the Russell City project at its original location was consistent with a "manufacturing" use, which is a permitted primary use listed in the Industrial Zoning District. Such determination was based largely on a determination that the Russell City power plant at that location was "similar to other existing uses in the Industrial District". On March 16, 2007, Energy Commission staff sent a letter to the City's Planning manager seeking clarification on the General Plan and Zoning consistency determination with respect to these issues. Responses from the City will be helpful to allow for staff to complete its analysis prior to publication of the PSA.

**Land Use and Traffic and Transportation – Hayward Executive Airport**

Staff has identified a potential issue associated with the proposed Eastshore project and its proximity to the Hayward Executive Airport (HEA). The HEA has a control tower with a staff overseeing approximately 400 airport operations per day. The Eastshore site is approximately 1.2 miles from the HEA. This places the proposed project within the HEA Approach Zone, which extends out two miles in all directions. Pursuant to § 10-6.35 of the Hayward Municipal Code (HMC), "...no use may be made of land within any airport approach zone, airport turning zone, or airport transition zone in such a manner as to...endanger the landing, take off, or maneuvering of aircraft." Helicopters and small general aviation aircraft executing a missed approach would potentially fly over the facility and could be exposed to an aviation hazard from exhaust plumes generated from the power plant's 70-foot stacks and air cooled radiators.

On March 16, 2007, staff sent a letter to the City of Hayward's Planning manager seeking clarification on the City's use restrictions and zoning consistency with respect to land use compatibility and potential aviation safety issues. The Federal Aviation Administration (FAA) has issued a letter dated March 9, 2007, that recommends that the applicants for the power plants proposed for sites in Hayward (i.e., Eastshore Energy Center and the Russell City Energy Center (01-AFC-7C)) provide sufficient information through filing Form 7460 for it to analyze the proposed facilities. FAA needs this information from the Eastshore applicant to make a determination on the effects of the exhaust plume to the navigable airspace. A final FAA determination may not be received for 60 days from the date the applicant files this information. At the time of this writing, the applicant had not yet filed FAA Form 7460 with the Federal Aviation Administration (see Eastshore Status Report #1, dated February 2, 2007).

In the third round of Data Requests submitted on March 2, 2007, staff requested an exhaust plume analysis from the applicant. Staff is also selecting an appropriate model to prepare an

independent analysis of the effects of the exhaust plumes. Staff's determination of the adequacy and level of appropriate mitigation will depend on receipt of the results of the plume analysis(s) as well as comments from the FAA, the City's Planning manager and the Hayward Airport Land Use Commission.

### **Traffic and Transportation - Cumulative Impacts**

Staff has identified a potential issue concerning the cumulative impacts associated with the interaction of Eastshore construction traffic and other projects. Two major projects are the proposed amendment to the Russell City Energy Center project and the Caltrans I-880/SR-92 interchange reconstruction. The potential cumulative impacts of construction, heavy equipment, trucks and workers commuting to these projects could result in a considerable impact to local and regional transportation facilities that are already heavily congested. The traffic analysis provided by the Eastshore applicant did not incorporate information on the proposed Russell City Amendment construction impacts or the impacts of the I-880/SR-92 Caltrans project. Staff received responses to our second round of data requests specific to these concerns on March 2, 2007, and they were discussed at the Data Response and Issues Resolution workshop conducted March 19, 2007, in Hayward. As a result of some shortfalls in the responses provided by the applicant, staff has requested additional information specific to data request set #2.

### **Worker Safety and Fire Protection**

Energy Commission staff has been informed by the City of Hayward Fire Department (CHFD) that a number of questions concerning the fire protection details of the proposed power plant remain unanswered by the applicant. This topic was discussed at the March 19, 2007, workshop. The applicant indicated that a meeting had already been conducted and they would schedule additional meetings in the coming weeks to address any remaining questions from CHFD. Staff is dependent upon the CHFD's review and response to the AFC's fire protection details in order to complete its analysis.

### **Community Input**

To date, staff has received public comment from approximately six hundred local Hayward residents expressing concerns about the proposed project. The primary areas of concern were as follows: degradation of air quality, erosion of property values, uncertainty as to the localized benefits of the power produced and the belief that the installation of a second power plant is an undue burden to the local community.

Staff addressed a significant number of questions related to these topics and catalogued additional questions at the March 19, 2007, workshop. Staff will address these community concerns within the scope of our Preliminary and Final Staff Assessment.

### **Emerging Project Issues**

At the March 19 workshop during discussion of Alternatives and Transmission System Engineering (TSE), a number of questions were expressed from both the public participants and the City regarding:

- 1) the “requirement” for a transmission system connection to the Eastshore substation, as opposed to other Pacific Gas & Electric (PG&E) substations in the Hayward region;
- 2) details regarding placement of poles along the approximately 1.25 miles of proposed transmission line from the proposed site at 25101 Clawiter Road to the Eastshore substation;
- 3) details regarding potential local benefits of power production; and
- 4) public dismay at an apparent lack of involvement and availability on the part of PG&E in the City’s hearings and the Energy Commission’s workshops.

Staff will work with the applicant to secure appropriate information from PG&E in our analysis of Alternatives and TSE. Staff is planning to provide a “Local System Effects” assessment as part of the TSE analysis. Staff is also evaluating the original PG&E Request For Offer (RFO) specific to the proposed Eastshore project for inclusion in the Alternatives analysis.

### **Schedule**

At this time, staff is projecting a 4 to 6 week delay to the schedule issued by the Committee dated February 2, 2007. The delay is a result of a number of factors including a) the mid-April release of the PDOC, b) time required for staff to complete plume modeling of the exhaust stacks, c) pending receipt of agency comments associated with the aviation and zoning consistencies (from FAA and the City) and d) the need for additional data requests. Completion of staff’s PSA is also predicated on closure of unresolved data requests from Set #2, complete data responses to Data Request Set #3, and receipt of comments or determinations from all local, state, and federal agencies.

The following table summarizes the Committee’s initial schedule in comparison to staff’s currently projected schedule. Staff’s proposed schedule modifications also reflect the addition of a third Data Response workshop in early May. This workshop would accommodate questions about the applicant’s third set of data responses and discussion of the issues summarized above. Staff’s projected schedule also indicates the normal duration of about 60 days between publishing the PSA and FSA. Staff, in coordination with the Air District, the City and the applicant, will strive to complete its analysis expeditiously and look for opportunities to condense the schedule to the degree possible.

**Committee's Initial & Staff's Proposed Schedule  
 Eastshore Energy Center Project**

<b>Committee's Initial Schedule</b>	<b>Staff's Projected Schedule</b>	<b>Event</b>
January 15, 2007	January 15, 2007	Applicant provides Data Responses – Set 1
January 29, 2007	January 29, 2007	Data Response and Issue Resolution Workshop 1
February 2, 2007	February 2, 2007	Staff files Data Request Set 2
February 20, 2007	February 20, 2007	Status Report 1 due to Committee
N/A	March 2, 2007	Staff files Data Request Set 3
March 2, 2007	March 2, 2007	Applicant provides Data Responses – Set 2
Early March	March 19, 2007	Data Response and Issue Resolution Workshop 2
March 19, 2007	March 23, 2007	Status Report 2 due to Committee
N/A	April 2, 2007	Applicant provides Data Responses – Set 3
Late March, 2007	Mid April, 2007	Agency preliminary determinations and BAAQMD PDOC
N/A	Mid April, 2007	Data Response and Issue Resolution Workshop #3
Late April, 2007	Early June, 2007	Staff files Preliminary Staff Assessment (PSA)
Mid May, 2007	Mid June, 2007	Staff conducts PSA workshop
May 30, 2007	July 30, 2007	Agency final determinations and BAAQMD FDOC
Early July, 2007	Early August, 2007	Staff files FSA

cc: Docket (06-AFC-6)  
 Proof of Service List

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION  
FOR THE EASTSHORE ENERGY CENTER  
IN HAYWARD  
BY TIERRA ENERGY OF TEXAS

Docket No. 06-AFC-6

PROOF OF SERVICE  
(Revised 3/12/07)

**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, Geoff Carter, declare that on March 27, 2007, I deposited copies of the attached Eastshore Energy Center (06-AFC-6) Status Report 2 in the United States mail at Sacramento, California 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.

\_\_\_\_\_  
/s/  
[signature]