

Memorandum

To: JOHN GEESMAN, Presiding Member,
Colusa Siting Committee
JEFFERY BYRON, Second Member
PAUL KRAMER, Hearing Advisor

Date : May 30, 2007

Telephone: (916) 653-1653

From : **California Energy Commission**
1516 Ninth Street
Sacramento CA 95814-5512


RICHARD RATLIFF
Staff Counsel IV

Subject: MAY 23, 2007, COMPLAINT OF INTERVENOR EMERALD FARMS REGARDING
LACK OF NOTICE FOR AIR DISTRICT PRELIMINARY DETERMINATION OF
COMPLIANCE FOR THE COLUSA GENERATING STATION (Docket No. 06-AFC-9)

By way of electronic attachment, intervenor Emerald Farms filed a letter demanding a "halt to the proceedings," based on the following alleged procedural lapses:

- 1) That staff did not "serve a copy or notice" of the Colusa County Air Pollution Control District's ("District") Preliminary Determination of Compliance ("PDOC").
- 2) That Emerald Farms has missed the deadline for public comment on the PDOC, and that the District will therefore not consider its comments on it.
- 3) That the PDOC was "produced without notice to" Emerald Farms, that it was not sent "to the service list," that there is no noticed comment period for it on the Energy Commission website, and that no notice mailed to Emerald Farms was received.

The PDOC is a document prepared by the local air district for all Energy Commission power plant licensing cases, advising the Commission as to whether a proposed project will comply with all air district regulations implementing the federal and state air quality laws. Because PDOCs are air district documents, they are prepared, issued, and noticed for comment in accordance with the regulations of the local air district. There is no requirement in law or regulation for the Energy Commission or its staff to serve parties to a power plant siting case with notice regarding the local air district's comment period, or to serve parties with copies of the PDOC.

In the present case, the PDOC was posted on the Energy Commission website, as were prior drafts and correspondence indicating that the document was forthcoming. According to Les Fife, an officer for the District, the District published notice of the PDOC and a 30 day comment period in the *Colusa Sun Herald*, described as the only newspaper of general circulation in Colusa County. This is the notice required by District regulations. However, Mr. Fife states that the District as a courtesy also sent a copy of the PDOC to Emerald Farms at the same time it sent the PDOC to the Energy Commission. The District's Mr. Fife indicates that Emerald Farms first contacted the District regarding the PDOC shortly after the 30 day

comment period expired, and that Fife suggested that Emerald Farms to file comments late

In any case, the iterative siting process for this project is still in an early stage, and Emerald Farms will have ample opportunity to raise issues during the Energy Commission process. This will include the opportunity to file comments or testimony and question District representatives and Commission staff. If the most recent letter is any guide, it appears that the Emerald Farms' concerns have more to do with the environmental impacts of emissions than with the more technical aspects of the District's rules and regulations. Emerald Farms is, of course, welcome to comment on either topic to Commission staff or the Commission itself.