State Of California | The Resources Agency of California

Memorandum

Date: February 20, 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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06-AFC-6
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Subject: **EASTSHORE ENERGY CENTER (06-AFC-6) STATUS REPORT 1**

Pursuant to the Committee Scheduling Order dated February 2, 2007, the following is staff's Status Report 1 for the proposed Eastshore Energy Center (Eastshore).

Background & Milestones to Date

As background, staff filed its Issue Identification Report on December 29, 2006, and identified various unresolved issues and the need for additional information, particularly in the area of air quality. Staff has been coordinating a number of activities to facilitate the discovery and analysis phase of the Application for Certification (AFC) process as follows:

- December 15, 2006 - Staff provided the applicant Data Request (DR) Set #1 requesting additional information for the following technical areas: air quality, biological resources, cultural resources, geology and paleontology, public health, soil and water resources, transmission system engineering, visual resources, and worker safety and fire protection.

- December 29, 2006 – Staff published the Issues Identification Report. Four issues were identified related to the technical area of Air Quality. The primary focus of the issues was on the impacts associated with particulate matter (PM10 and PM2.5) or particulate matter precursor emissions.

- January 15, 2007 – The applicant filed its Responses to DR Set #1.

- January 29, 2007 – Prior to the Site Visit and Informational Hearing at the proposed Eastshore site, staff and the applicant conducted a Data Response and Issues Resolution Workshop to discuss the applicant's responses to staff's DR Set #1. Agency representatives from the City of Hayward were in attendance, and a number of their concerns were discussed. The meeting focused on the areas identified in DR Set #1 as well as the areas of traffic and transportation, alternatives and land use.

- February 2, 2007 - Staff provided the applicant Data Request Set #2 requesting additional information in the technical areas of alternatives, cultural resources, traffic and transportation, and transmission system engineering. Staff expects to receive the applicant's responses to these data requests by March 2, 2007.

Other Coordination Activities

- Air Quality – At this time, the four air quality issues identified in the Issues Identification Report are being addressed jointly by staff, the Bay Area Air Quality Management District (BAAQMD). The BAAQMD is expected to issue the Preliminary Determination of Compliance (PDOC) in mid-March.

- Staff is currently working on preparing the Preliminary Staff Assessment (PSA); the current estimated timeframe for release is late April 2007.

Emerging Project Issues

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." Aircraft executing a missed approach, helicopters, and small general aviation aircraft would potentially fly over the facility at lower altitudes and could be exposed to an aviation hazard from exhaust plumes generated from the power plant's 70 foot stacks and air cooled radiators.

Staff will be reviewing comments from the Federal Aviation Administration (FAA) and the Alameda County Airport Land Use Commission (ALUC) to assess impact significance and appropriate mitigation. The Applicant will also be filing an FAA Form 7460 with the FAA, which should result in additional comments regarding the significance of any potential impacts from that agency and the ALUC. Comments from the FAA may not be received for 60 days from the date the applicant files form 7460. Staff is also preparing a third round of Data Requests to acquire additional plume analysis from the applicant and requests for information and comments are being circulated to Hayward Airport staff, ALUC staff and the FAA. Staff's determination of the adequacy and level of appropriate mitigation will depend on receipt of the results of the plume analysis and the FAA/ALUC comments.

Cumulative Traffic Impact
Staff has identified a potential issue concerning the cumulative impacts associated with the interaction of Eastshore construction traffic and other projects, including the proposed amendment to the Russell City Energy Center (01-AFC-7C) project and the Caltrans I-880/SR-92 interchange reconstruction. The potential cumulative impacts of these projects could result in a considerable impact to traffic conditions that are already heavily congested. The traffic analysis provided by the Eastshore applicant did not incorporate Russell City Amendment construction impacts information or the impacts of the I-880/SR-92 Caltrans project. Staff's second round of data requests has requested an updated traffic analysis that addresses these cumulative impacts. A response is expected by March 2, 2007.

Compliance with City of Hayward Laws, Ordinances, Regulations, and Standards (LORS)
On February 15, 2007, the City of Hayward (City) staff recommended to the City Planning Commission that the Eastshore Energy Center is not consistent with the General Plan or the Industrial Zoning District. After hearing City staff's recommendation, the Planning Commission voted to a stalemate: 3 for, 3 against and 1 abstention. Since the motion failed to get a majority, it will now go before the City Council without a formal recommendation from the Planning Commission. This item is scheduled to go before the Hayward City Council on March 6, 2007.

The area is currently classified as "Industrial Corridor" in the General Plan, and the site is zoned Industrial. The Planning Commission'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 believes 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". If the Hayward City Council supports a Planning Commission opinion that the project is not consistent with the General Plan, Energy Commission staff would have to take that into consideration in its land use analysis.

Community Input
To date, staff has received public comment from 8 (eight) local Hayward residents expressing concerns about the proposed Eastshore facility. 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 is encouraging the authors of all public comments to participate in the upcoming workshops and as always, will consider any comments within the scope of our Preliminary and Final Staff Assessment(s).

Schedule
At this time, staff believes it may be difficult to maintain the schedule as issued by the Committee in their order dated February 2, 2007. However, staff will continue to work towards meeting the Committee schedule, but this is predicated on the applicant filing complete data responses to Data Request Set #2, Data Request Set #3, and receipt of preliminary comments or determinations from all local, state, and federal agencies, including the PDOC from BAAQMD in mid to late March 2007. Staff's ability to adhere to the schedule will depend upon the applicant's prompt filing of FAA Form 7460 with the Federal Aviation Administration and timely responses to this filing by the appropriate agencies.

cc: Docket (05-AFC-2)
Proof of Service List