State Of California | The Resources Agency of California

Memorandum

Date: June 1, 2007
Telephone: (916) 654-4679

To: Commissioner Jeffrey Byron, Presiding Member
Commissioner John Geesman, Associate Member

From: California Energy Commission – 1516 Ninth Street Sacramento, CA 95814-5512
Bill Pfanner
Project Manager

Bill Pfanner

DOCKET
06-AFC-6
DATE JUN 01 2007
RECD. JUN 0 2007

Subject: **EASTSHORE ENERGY CENTER (06-AFC-6) STATUS REPORT 4**

Pursuant to the Revised Committee Scheduling Order dated April 5, 2007, and the Notice of Committee Status Conference dated May 18, 2007, the following is staff's Status Report 4 for the proposed Eastshore Energy Center (Eastshore).

Recent Events and Milestones

- April 27, 2007, receipt of Preliminary Determination of Compliance (PDOC) from Bay Area Air Quality Management District (BAAQMD).
- May 3, 2007, docketing of Workshop questions (#1 thru #14) from Data Response and Issues Resolution Workshop conducted on March 19, 2007 in Hayward.
- May 23, 2007 staff conducted a Data Response and Issue Resolution Workshop in Hayward.

Current Issues and Activities for Resolution

Staff is continuing with the discovery and analysis portions of its review of the Eastshore Application for Certification (AFC). At this time, the primary area of outstanding information is Traffic and Transportation (airport safety/plume analysis). Additionally, community members attending the March 19, 2007 and May 23, 2007 Data Response and Issue Resolution Workshops requested that staff provide an analysis of the project's impacts on property values. Staff has data summarizing existing studies which address impacts to property values in a general setting. If the Committee wishes information specific to Hayward, staff will need to make arrangements to secure a consultant which would affect the publication date of the PSA.

Community members attending the May 23 workshop requested that staff's PSA address issues in a number of technical areas. Staff will attempt to accommodate these requests without delay to the PSA schedule.

The following provides a summary of the status of the information needed to complete the PSA and anticipated dates of submittal.

Air Quality

The Bay Area Air Quality Management District (BAAQMD) released its Preliminary Determination of Compliance (PDOC) for the Eastshore project on April 25, 2007, which was received by the Energy Commission on April 27, 2007.

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ORIGINAL MAILED FROM SACRAMENTO ON 6/1/07

Staff's review of the applicant's PM10/PM2.5 emissions mitigation plan is now complete which permits completion of its cumulative air quality analysis.

At the May 23, 2007 workshop, the community requested that the PSA address the option of limiting winter operations for mitigating particulate matter (PM) impacts, and also requested that staff identify and evaluate the difference in emission rates for reciprocating engines versus turbines. Staff will attempt to accommodate these requests without delay to the PSA schedule.

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

On March 16, 2007, Energy Commission staff sent a letter to the city of Hayward's Planning Manager seeking clarification on the General Plan and Zoning consistency determination for the proposed Eastshore site. A response from the city was received on April 19, 2007, which details why the city finds the Eastshore project not consistent with Hayward's Industrial Zoning District and General Plan.

Staff now has the land use information needed to complete its analysis for publication of the PSA, with the exception of material related to the Hayward Executive Airport (see below).

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 (i.e., take-offs and landings). The Eastshore site is approximately 1.2 miles from the HEA, placing 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 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's March 16, 2007 letter to the city also sought clarification on the city's use restrictions and zoning consistency with respect to land use compatibility and potential aviation safety issues. The city's April 19, 2007 response stated that the Eastshore site is within the boundaries of the Hayward Airport Airspace Drawing shown in the Hayward Executive Airport Master Plan, is not in direct alignment of any major approach route and does not exceed the height limitations established by the FAA and referred to in Hayward's ordinance. However, the city identified the issue of exhaust plumes as a new area of concern and stated that the city understands that the issue of exhaust plumes will be addressed by the Federal Aviation Administration (FAA} as part of their Form

7460 review. Further, the city expects that any mitigation associated with exhaust plumes identified by the FAA will be met and funded by the Eastshore applicant.

FAA's Airports Division - Hayward office, issued a March 9, 2007 letter recommending that applicants proposing power plants on sites within the HEA area of influence (i.e., Russell City and Eastshore Energy Centers) file FAA Form 7460-1, even though none of the stacks exceed FAA height limitations. FAA staff suggested inclusion of sufficient information regarding the expected thermal plumes such that it could evaluate any potential aviation safety issues. The applicant filed FAA Form 7460-1 with the Hawthorne, CA office on March 28, 2007 and referred to the thermal plumes. On May 17, 2007, the FAA Air Traffic Airspace Branch made a Determination of No Hazard to Air Navigation (issued by Karen McDonald, Western Pacific Region, Hawthorne, California), which indicated that the physical stack structures would not exceed obstruction standards and would not be a hazard to air navigation.

However, the FAA did not address the potential safety hazards from project-generated thermal plumes, except to require the applicant to file FAA Form 7460-2 within 5 days after construction reaches its greatest height. Ms. McDonald indicated that Form 7460-2 would be used for notifying the FAA Airports Division to incorporate a note in the Airport Facilities Directory entry for the HEA, advising that power plant exhaust gases may cause unexpected localized thermal instability under certain atmospheric conditions.

In the third round of Data Requests submitted on March 2, 2007, staff requested an exhaust plume analysis from the applicant. The applicant's thermal plume analysis results for the Eastshore project were provided in the Data Responses submitted on April 3, 2007. In its review of the applicant's thermal plume analysis, staff concluded that the applicant's methodology appeared flawed in that it did not actually match the method from the reference source sited and did not provide reasonable results. Staff has been working with the applicant's consultant to address the methodology issues. Staff has prepared an independent thermal plume analysis and impact assessment of the effects of the plumes on the navigable airspace. The aviation safety impact assessment, which is still in progress, may require additional time and resources to complete and incorporate into the PSA.

Staff will be seeking comments on its PSA from the FAA (Airport Division- Hayward office), Caltrans Aeronautics, the City of Hayward Public Works Department, the Alameda County Airport Land Use Commission, and the HEA.

Worker Safety and Fire Protection

The city of Hayward Fire Department has partially answered the Energy Commission staff's requests for information regarding the Department's ability to respond to emergency situations at the Eastshore facility. The Fire Chief has indicated that he does not have sufficient information for discussing the resources his department would need for providing an effective response. The applicant has reported meeting with the Fire Department on April 25, 2007, and that information regarding fire protection was submitted to staff. Staff will be seeking the Department's comments on its PSA.

Community Input

To date, staff has received public comment from approximately 1,300 local Hayward residents expressing concerns about the proposed project. The primary areas of concern are 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 community.

Staff will address these community concerns within the scope of its Preliminary and Final Staff Assessments.

Emerging Project Issues

Staff has been working with PG&E to understand the 2004 Long Term Request for Offer (RFO) process and PG&E's selection of the Eastshore Energy Center project as part of that process. Staff believes that information about that process is necessary to properly identify project objectives and prepare the alternatives analysis required by the California Environmental Quality Act (CEQA) and the Commission's siting regulations. In addition, many members of the public have requested that PG&E be available to answer questions about the project selection process at a public forum.

PG&E notified staff that it declined to participate in the May 23, 2007 workshop. It did provide a letter on May 9, 2007, generally describing the RFO process, which has been posted on the Commission's Eastshore project web page. In its letter, PG&E points out that an independent auditor and a procurement review group was used to select the winning bids in the RFO process. However, as the Committee is aware, participants in that review process, including Commission staff, signed confidentiality agreements, and are prohibited from releasing any details about the review process. PG&E also references the website http://apps.pge.com/regulation/search.aspx which contains links to a number of documents that were produced during the review of the RFO process by the California Public Utilities Commission. Many of these documents are also confidential, and those that are public do not appear to shed light on the significance of project location in the review process. The PG&E letter does state that the San Francisco Bay Area experiences transmission constraints and that electricity delivered into the Bay Area region from sources such as the Russell City Energy Center and the Eastshore Energy Center would be advantageous.
As a result, staff does not anticipate receiving any more information from PG&E about the project selection process. Staff plans to use publicly-available information for developing its alternatives analysis.

Revised Scheduling Order

The Revised Scheduling Order published on April 5, 2007 stipulated that staff will consider input from the Russell City proponent regarding the feasibility of one site for both the Eastshore and Russell City projects, potential cumulative impacts of two sites, alternative interconnection locations, and any other relevant information. Staff is addressing this information in its PSA Alternatives section.

Staff's Status Report 2, published on March 27, 2007, projected a 4 to 6 week delay to the schedule issued by the Committee on February 2, 2007. The Revised Scheduling Order of April 5, 2007 slightly modified that schedule, with an estimated PSA publication date of mid-June 2007.

The following table summarizes the Committee's Revised Scheduling Order in comparison to staff's current projected schedule. 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 Revised & Staff's Proposed Schedule
Eastshore Energy Center Project

Committee's Revised Schedule	Staff's Projected Schedule	Event
N/A	April 2, 2007	Applicant provided Data Response Set 3 on April 3, 2007
Late April, 2007	Mid April, 2007	Agency preliminary determinations and BAAQMD PDOC provided April 27, 2007
April 25, 2007	May 4, 2007	Status Report #3 due to Committee
Early May, 2007	May 23, 2007	Data Response Set #3 and Community Workshop
June 1, 2007	June 1, 2007	Status Report #4 due to Committee
Mid June, 2007	Late June/Early July, 2007	Staff files Preliminary Staff Assessment (PSA)
June 20, 2007	To be determined (TBD)	Status Report #5 due to Committee
Late June, 2007	July/August, 2007	Staff conducts PSA workshop
July 25, 2007	TBD	Status Report #6 due to Committee
Early August, 2007	Early August, 2007	Agency final determinations and BAAQMD FDOC
August 15, 2007	TBD	Status Report #7 due to Committee
Late August, 2007	September/October, 2007	Staff files Final Staff Assessment (FSA)

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

1

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 5/1/07)**

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, Renae Maher, declare that on June 01, 2007, I deposited copies of the attached Eastshore Energy Center (06-AFC-6) Status Report #4 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.

Renae Maher

Renae Maher