State of California

The Resources Agency of California

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Memorandum

To: **Hearing Officer Susan Gefter**

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

Telephone: (916) 654-4206

Subject: **Comments on Eastshore Energy Center (06-AFC-6) Final Distances Table**

Hearing Officer Gefter:

Energy Commission staff has reviewed the draft measurements, prepared by the applicant and the City of Hayward, that identify the distance from the proposed Eastshore site to various locations in and around the Hayward area. Many of the applicant's measurements provide a relatively accurate approximation of the site's proximity to the identified locations. However, due to the size of the Eastshore site, as well as facilities such as Chabot College, Eden Gardens, and Ochoa Middle School campuses; Hayward Executive Airport, Alameda County Redevelopment planning areas, and Russell City Energy Center, measurements taken from the center of the Eastshore site to the center of these facilities may present an inaccurate impression of the project's proximity and potentially understate the project impacts. In other instances, use of site boundaries are more appropriate to accurately reflect areas of concern, such as those reflected in the FAA's recommendations to avoid overflight of the "site". These measurements also more accurately reflect the methods and results used by Energy Commission staff during the environmental analysis and preparation of the Preliminary and Final Staff Assessment and Evidentiary Hearing testimony.

Therefore, Energy Commission staff, as well as the County of Alameda, Group Petitioners, and Chabot-Las Positas Community College District, prepared responses to the draft. These delineated areas of agreement and identified measurements (or measurement methods) that were not acceptable to the various parties. For the most part, Energy Commission staff measurements agree with or were accepted by all parties except the applicant. Adjustments proposed by Alameda County, the Group Petitioners, and Chabot College are also acceptable to CEC Staff. However, none of these alternate measurements were incorporated in the applicant's final table (submitted by email to all parties on February 1, 2008).

Energy Commission staff have revised the original CEC Staff draft, incorporating input from all parties, including the applicant and City of Hayward, in the attached Table. Graphics supporting the measurements, or other sources, have been attached or referenced. The method of and justification for the calculations are discussed under 'Description'. Measurements where the applicant and CEC staff agree are marked with an *.

We concur with the applicant's assessment that agreement on the aviation distance measurements or calculation methods is unlikely, but there are other locations, such as the schools, residences, and planning areas listed above, where we also do not agree.

Finally, the applicant's discussion indicates that the area outside the six safety zone sectors is not considered to be a safety compatibility area. This description of the Safety Compatibility Zones is inappropriate, inaccurately represents the intent of the Zones,

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completely ignores the intent of the ALUPP General Referral Area designation and City of Hayward Municipal Code §10-6, and does not appropriately address the question poised by the Committee. Only the Traffic Pattern Zone was referenced in evidence and testimony, as it related to the City of Hayward's contention that the Traffic Pattern Zone and AAZP are synonymous. For clarity, it should be noted that Safety Compatibility Zones, as depicted in EEC FSA Land Use Figure 5, primarily address risks which aircraft accidents pose for people and property on the ground and the general design is loosely based on a nationwide accident distribution grid. A separate set of safety compatibility concerns involve land use characteristics which can cause an aircraft accident or contribute to its consequences for people on board the aircraft and are reflected in airport land use plans or policies, zoning codes, and federal regulations and advisories.

Bill Pfanner/Shaelyn Strattan

February 4, 2008

EASTSHORE ENERGY CENTER – DISTANCES IN QUESTION

Prepared by CEC Staff as of February 4, 2008

* Indicates measurements provided by the Applicant and acceptable to CEC Staff as a generally accurate representation of site proximity.

Distances in Question per the request of Hearing Officer Gefter	Feet (rounded to the nearest foot)	Description
Distance of Eastshore to the Hayward Executive Airport	5,606 feet	Distance measured from Eastshore site boundary to closest point of the Hayward Executive Airport property boundary.
Distance of Eastshore to the Oakland International Airport	41,920*	Distance measured from center of Eastshore site to Oakland International Airport using reference points from City of Hayward, R. Baumann.
Distance of Eastshore from Hayward Airport airspace	0	The Eastshore site is within the boundaries of the Hayward Airport airspace (EEC FSA, Exh. 200, Land Use Figures 4 & 6). Hayward's Class D/E airspace extends from the surface to 1,500 feet msl.
Hayward Airport takeoff and landing flight patterns	0	There is no quantifiable boundary to a traffic pattern for any airport. The traffic pattern, as defined in the FAA Pilot/Controller Glossary (http://www.faa.gov/ airports_airtraffic/ air_traffic/publications/ATpubs/PCG/T.HTM), is the traffic flow that is prescribed for aircraft landing at, taxiing on, or taking off from an airport. The components of a typical traffic pattern are upwind leg, crosswind leg, downwind leg, base leg, and final approach. Aircraft generally enter and depart the traffic flow for the Hayward airport approximately 1-2 miles from the airport, at altitudes below 1,000 feet msl. Most aircraft enter the traffic pattern in this general vicinity, which includes locations immediately over the EEC site (Exhibits 417 & 418).
Hayward Airport Traffic Pattern Zone	279	Distance measured from Eastshore site boundary to closest point of the Traffic Pattern Zone (EEC FSA, Exh. 200, Land Use Figure 5). The Traffic Pattern Zone depicts an approximate one-mile radius from the primary runway (Runway 10R/28L). The EEC site boundary was used because proposed FAA flight restrictions for flights over power plants apply to the site, not just the stacks.
Hayward Airport Zoning Plan (AAZP) area and Alameda County ALUPP General Referral/ Hazard Prevention Zone	0	The Eastshore site is within the boundaries of the Hayward AAZP area (EEC FSA Traffic & Transportation Figure 6) and the ALUPP General Referral/Hazard Prevention Zone (aka Airport Influence Area) (EEC FSA Land Use Figure 3)
Distance of Eastshore from Oakland International Airport airspace	0	The Eastshore site is within the boundaries of the Oakland Airport airspace (EEC FSA, Exh. 200, Land Use Figure 4). Oakland's Class C airspace overlies the Hayward airspace and extends from 1,500 feet msl to 3,000 feet msl.

Distances in Question per the request of Hearing Officer Gefter	Feet (rounded to the nearest foot)	Description
	3,192	Distance measured from Eastshore site boundary closest to Anthony w. Ochoa School boundary (per measurement provided by Group Petitioners/Google Earth).
	5,624*	Distance measured from center of Eastshore site to center of Lea's Montessori located at 26236 Adrian Avenue.
Hospitals	7,977*	Distance measured from center of Eastshore site to center of Kaiser Hospital.
	7,559*	Distance measured from center of Eastshore site to center of Kaiser Medical Center.
	9,636*	Distance measured from center of Eastshore site to center of St. Rose Hospital.
	3,218*	Distance measured from center of Eastshore site to center of Eden West Convalescent Hospital.
Office buildings	0	Fremont Bank Operations Center is located on adjoining property, immediately adjacent to the Eastshore site's southern boundary.
Commercial entities	0	Service Station (gas card facility) located on adjoining property, immediately adjacent to the Eastshore site's northwest boundary.
Industrial entities	0	Warehouse and light industrial facilities located on adjoining property, immediately adjacent to the Eastshore site's north and west boundaries. (see FSA, Exhibit 200, Land Use section, p. 4.5-25 re "Sensitive Receptors"; see Applicant's Distance Table for additional commercial & industrial locations)
Height of existing industrial stacks within the AAZP area	180*	Rohm & Haas (single stack)
	228*	KFAX radio broadcast antennae
Current zoning height limitations		The AAZP (EEC FSA, Exh. 200, Traffic and Transportation Figure 6)

<table>
<tr><th>Distances in Question per the request of Hearing Officer Gefter</th><th>Feet
(rounded to the nearest foot)</th><th>Description</th></tr>
<tr><td></td><td></td><td>encompasses nine zoning district designations (EEC FSA, Exh. 200, Land Use Figure 2). The EEC site is within the Industrial zoning district and there are no height restrictions within the City of Hayward Zoning Code for that area. Height limitations for the remaining zoning districts are as follows:
<table>
<tr><th>Zoning Designation</th><th>Height Limitation</th></tr>
<tr><td>Single Family Residential
(HMC §10-1.235)</td><td>Maximum Bldg. Height: 30 feet
Max. Accessory Bldg. Height: 14 feet/1 story</td></tr>
<tr><td>Medium Density Residential.
(HMC §10-1.235)</td><td>Maximum Bldg. Height: 40 feet
Max. Accessory Bldg. Height: 14 feet/1 story</td></tr>
<tr><td>High Density Residential
(HMC §10-1.535)</td><td>Maximum Bldg. Height: 40 feet
Max. Accessory Bldg. Height: 14 feet/1 story</td></tr>
<tr><td>Planned Development
(HMC §10-1.535)</td><td>Standards of the zoning district and other applicable plans, guidelines, and the General Plan governing uses most similar in nature and function to the uses proposed in the PD District.</td></tr>
<tr><td>Mobile Home Park
(HMC §10-1.735)</td><td>Maximum Bldg. Height: 40 feet
Max. Accessory Bldg. Height: 14 feet/1 story</td></tr>
<tr><td>Flood Plan
(HMC §10-1.2135)</td><td>Maximum Bldg. Height: 40 feet
Max. Accessory Bldg. Height: 26 feet</td></tr>
<tr><td>Other
(HMC §10-1.2135)</td><td>Alameda County jurisdiction; subject to Alameda County standards for the zoning district and other applicable plans, guidelines, and the General Plan; as well as compatibility with surrounding City of Hayward properties.</td></tr>
</table>
The EEC site is within the boundaries of the Hayward airport conical zone (EEC FSA Land Use Figure 6). Restrictions imposed by the FAA (14 CFR 77) limit the height of obstructions within this zone, but only apply to physical structures, such as the stacks of the Eastshore facility.</td></tr>
<tr><td>Number of Conditional Use Permits (CUPs) granted to allow the height variances in the AAZP area.</td><td>0</td><td>Since there is no City of Hayward zoning code height restriction for the Industrial Zoning District, CUPs or variances based on proposed structural heights would not be required. The number of CUPs or variances applied for or</td></tr>
</table>

Distances in Question per the request of Hearing Officer Gefter	Feet (rounded to the nearest foot)	Description
Oakland Airport's takeoff and landing flight patterns		As noted above, there is no quantifiable boundary to a traffic pattern for any airport. However, flights arriving/departing high intensity Runway 11/29 fly directly over the Hayward Airport at altitudes at or above 1,500 feet msl.
Distance of Eastshore from Russell City Energy Center (RCEC) site	2,942	Distance measured from the Eastshore western site boundary to the RCEC eastern site boundary.
Distance of Eastshore from Chabot College campus (include size of the campus)	2,826	Distance measured from the Eastshore site boundary to the closest point of the Chabot College campus boundary. Due to the size of Chabot College (approximately 90+ acres), measurements taken from the center of the EEC site to the campus center would minimize the proximity of the college and potentially understate the project's impacts.
Distance of RCEC from Chabot College campus	6,762	Distance measured from the RCEC site boundary to the closest point of the Chabot College campus boundary.
Location of Chabot College campus center relative to RCEC and Eastshore	N/A	Generally northeast of both RCEC and Eastshore. The Eastshore facility would sit approximately midway between the RCEC and Chabot College.
Distance of Eastshore from Alameda County's Redevelopment Agency's nearest projects	1,115	Distance measured from the eastern Eastshore site boundary to closest Alameda County Redevelopment County project area boundary (per Mt. Eden Redevelopment Sub-Area Distances map, provided by the County of Alameda; Jan. 31, 2008).
Distance of Eastshore from nearest:		
Residences	1,120	Distance measured from closest Eastshore site boundary to closest residential lot boundary at 2765 Depot Road (distance is approximate/Google Earth).
	2,171	Distance measured from Eastshore eastern site boundary to western boundary of Waterford Apartment complex (per measurement provided by Group Petitioners/Google Earth).
Schools	919*	Distance measured from center of Eastshore site to center of Life Chiropractic College.
	4,769*	Distance measured from center of Eastshore site to center of ITT Technical Institute.
	3,664	Distance measured from Eastshore site boundary closest to Eden Gardens School boundary (per measurement provided by Group Petitioners/Google Earth).

Distances in Question per the request of Hearing Officer Gefter	Feet (rounded to the nearest foot)	Description
.		granted for other zoning districts was not applicable to the proposed project site and was not addressed.
Height and number of RCEC exhaust stacks and distance of RCEC from Hayward Executive Airport	2@145 ft	There are two 145-foot tall exhaust stacks associated with the RCEC project. The distance from the center of the RCEC site to the Hayward Executive Airport is 9569 feet (measured based upon the runway end coordinates provided by R. Baumann, City of Hayward).

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

APPLICATION FOR CERTIFICATION FOR THE EASTSHORE ENERGY CENTER IN CITY OF HAYWARD BY TIERRA ENERGY	Docket No. 06-AFC-6 PROOF OF SERVICE (Revised 1/18/2008)

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:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 06-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

APPLICANT

Greg Trewitt, Vice President
Tierra Energy
710 S. Pearl Street, Suite A
Denver, CO 80209
greg.trewitt@tierraenergy.com

APPLICANT'S CONSULTANTS

David A. Stein, PE
Vice President
CH2M HILL
155 Grand Avenue, Suite 1000
Oakland, CA 94612
dstein@ch2m.com

Jennifer Scholl
Senior Program Manager
CH2M HILL
610 Anacapa Street, Suite B5
Santa Barbara, CA 93101
jscholl@ch2m.com

Harry Rubin, Executive Vice President
RAMCO Generating Two
1769 Orvietto Drive
Roseville, CA 95661
hmrenergy@msn.com

COUNSEL FOR APPLICANT

Jane Luckhardt, Esq.
Downey Brand Law Firm
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

INTERESTED AGENCIES

Larry Tobias
CA Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
ltobias@caiso.com

INTERVENORS

Greg Jones, City Manager
Maureen Conneely, City Attorney
City of Hayward
777 B Street
Hayward, California 94541
greg.jones@hayward-ca.gov
michael.sweeney@hayward-ca.gov
maureen.conneely@hayward-ca.gov
david.rizk@hayward-ca.gov

Pillsbury Winthrop Shaw Pittman LLP.
Att: Diana Graves, Esq
Att: Michael Hindus, Esq
50 Fremont Street
San Francisco, CA 94120
diana.graves@pillsburylaw.com
michael.hindus@pillsburylaw.com
ronald.vanbuskirk@pillsburylaw.com

Paul N. Haavik
25087 Eden Avenue
Hayward, CA 94545
lindampaulh@msn.com

James Sorensen, Director
Alameda County Development Agency
Att: Chris Bazar & Cindy Horvath
224 West Winton Ave., Rm 110
Hayward CA 94544
james.sorensen@acgov.org
chris.bazar@acgov.org
cindy.horvath@acgov.org

Charlotte Lofft & Susan Sperling
Chabot College Faculty Association
25555 Hesperian Way
Hayward, CA 94545
clofft@chabotcollege.edu
ssperling@chabotcollege.edu

Law Office of Jewell J. Hargleroad
Jewell J. Hargleroad, Esq
1090 B Street, No. 104
Hayward, CA 94541
jewellhargleroad@mac.com

Jay White, Nancy Van Huffel,
Wulf Bieschke, & Suzanne Barba
San Lorenzo Village Homes Assn.
377 Paseo Grande
San Lorenzo, CA 94580
jwhite747@comcast.net
slzvha@aol.com
wulf@vs-comm.com
suzbarba@comcast.net

Richard Winnie, Esq.
Alameda County Counsel
Att: Andrew Massey, Esq.
1221 Oak Street, Rm 463
Oakland, CA 94612
richard.winnie@acgov.org
andrew.massey@acgov.org

*** Libert Cassidy Whitmore**
Att: Laura Schulkind, Esq.
Att: Arlin B. Kachalia, Esq.
153 Townsend Street, Suite 520
San Francisco, CA 94107
lschulkind@lcwlegal.com
akachalia@lcwlegal.com

Robert Sarvey
501 W. Grantline Rd
Tracy, CA, 95376
Sarveybob@aol.com

ENERGY COMMISSION

Jeffrey D. Byron, Presiding Member
jbyron@energy.state.ca.us

John L. Geesman, Associate Member
jgeesman@energy.state.ca.us

Susan Gefter, Hearing Officer
sgefter@energy.state.ca.us

Bill Pfanner, Project Manager
bpfanner@energy.state.ca.us

Caryn Holmes, Staff Counsel
cholmes@energy.state.ca.us

Public Adviser
pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Christina Flores, declare that on February 4, 2008, I deposited copies of the attached Comments on Eastshore Energy Center (06-AFC-6) Final Distances Table in the United States mail at Sacramento, CA, 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.

Christina Flores

Christina Flores