

**CALIFORNIA ENERGY COMMISSION**

JEFFREY D. BYRON, COMMISSIONER

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May 2, 2008

Greg Hewitt  
Vice President, Development and Engineering  
Tierra Energy, LLC  
710 S. Pearl Street, Suite A  
Denver, CO 80209

Re: Eastshore Energy Center AFC Schedule  
Docket No. 06-AFC-6

Dear Mr. Hewitt:

As the presiding member of the Eastshore AFC Committee, I am responding to your April 26, 2008, letter concerning the schedule for publishing the Presiding Member's Proposed Decision (PMPD) for the project. I appreciate the importance of a timely decision to Tierra Energy, and I assure you that a judicious decision has been my goal as well. However, I will not allow the desire for an expedited decision to compromise a thorough and transparent decision-making process. I do not agree with your characterization that the delays have been "unexplained," "habitual," or "punitive." The schedule for each power plant siting case has been determined historically on a case-by-case basis. The schedule for this application has been primarily driven by the complexity of the issues and the number of parties involved.

To ensure a fair and thorough deliberative process, it has been necessary for the Committee to carefully consider all of the evidence, including the testimony and voluminous documents submitted by the parties. The issues presented during the hearings have been complex and aggressively litigated by the five intervenors in this case, and the case has also been subject to significant input from the Federal Aviation Administration (FAA). The schedule has also been affected by the sheer volume of evidentiary testimony. There are more than 160 documents on the Exhibit List for review by the Committee in the preparation of the PMPD. In addition, public participation in this process has been extensive and vigorous. The Commission's application process encourages public involvement and I have accommodated residents of the Hayward community by scheduling several public comment sessions during this proceeding. In addition, the Commission has received over 1,500 written comments regarding the project.

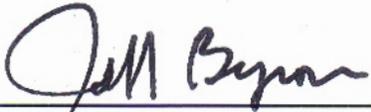
As you know, there have been some personnel changes at the Energy Commission, which have also affected the schedule. To avoid prolonging the case even further, I elected to not replace key personnel and instead retained our original hearing officer under a contract arrangement to finish the case. However, the major reasons for an extended schedule in this case have been

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my efforts to provide a thorough and complete public forum and to ensure a fair and legally supportable decision that fully carries out the Commission's legal duties based upon the evidentiary record presented to the Committee.

Your timely responses to the Energy Commission Staff's data requests and other information requests from responsible agencies in this matter have been commendable. I appreciate your cooperation in working with Commission staff to facilitate the necessary reviews required by applicable federal, state, and local laws and regulations. I will reach a decision as quickly as possible, given all the requirements of the law.

Sincerely,



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JEFFREY D. BYRON  
Commissioner and Presiding Member  
Eastshore AFC Committee