From: "Massey, Andrew J., County Counsel" <andrew.massey@acgov.org>
To: <Jennifer.Scholl@CH2M.com>, <jewellhargleroad@mac.com>, "Bazar, Chris, C...
CC: <Bpfanner@energy.state.ca.us>, <Cholmes@energy.state.ca.us>, <Mstratta@e...
Date: 2/1/2008 3:04 PM
Subject: RE: Eastshore Energy Center: 06-AFC-06

DOCKET
06-AFC-6
DATE FEB 01 2008
RECD. FEB 01 2008

Jennifer,

I have reviewed the two attachments in your email referenced below. Although I appreciate your hard work taking the lead to measure the distances requested by the Hearing Officer, Alameda County ("the County") cannot agree to stipulate to the distances and map you have provided for the following reasons:

* Many of the distances in the new chart and map are different from those in the Energy Commission Staff's draft dated January 30, 2008, but do not provide an explanation for the changed figures;
* The chart and map include new distances that the County has not had an adequate time to review. In general, the center-to-center measurements the Applicant provides are unhelpful for buildings located in close proximity to the Eastshore site as this method of measurement tends to create the impression these buildings are very far apart, when in many cases they are across the street from one another;
* The Applicant's chart and map do not incorporate any of the distances provided by the County in its comments dated January 31, 2008, nor do you include the map created by the County for the distances to each non-contiguous sub-area of the Mt. Eden Redevelopment Area.
* The comments on the Applicant's chart related to the disputed airport distances contain legal conclusions that are likely the subject of the parties' briefs.

I regret that despite your hard work we were unable to come to an agreement at this time. Please know that the County remains open to the possibility of stipulating to these distances in the future should the Hearing Officer grant the parties additional time.

Please contact me if you have any questions.

Thank you,

Andrew J. Massey

Associate County Counsel

Office of the County Counsel I 1221 Oak Street, Suite 450 I Oakland, California 94612

(510) 272-6700 I Direct line (510) 272-6732 I Tieline x26732 I Fax No. (510) 272-5020

Email: andrew.massey@acgov.org <mailto:andrew.massey@acgov.org> I www.acgov.org <blocked::http://www.acgov.org/>

Confidentiality Notice: This electronic mail transmission may contain privileged and/or confidential information only for use by the intended recipient(s). Any usage, distribution, copying or disclosure by any other person, other than the intended recipient is strictly prohibited and may be subject to civil action and/or criminal penalties. If you received this transmission in error, please notify the sender by reply email or by telephone and delete the transmission.

From: Jennifer.Scholl@CH2M.com [mailto:Jennifer.Scholl@CH2M.com]
Sent: Friday, February 01, 2008 1:31 PM
To: jewellhargleroad@mac.com; Massey, Andrew J., County Counsel; Bazar, Chris, CDA; Horvath, Cindy, CDA; Sorensen, James, CDA; Winnie, Richard, County Counsel; Sarveybob@aol.com; slzvha@aol.com; ltobias@caiso.com; david.stein@ch2m.com; clofft@chabotcollege.edu; ssperling@chabotcollege.edu; jwhite747@comcast.net; suzbarba@comcast.net; jluckhardt@downeybrand.com; Jbyron@energy.state.ca.us; Sgefter@energy.state.ca.us; david.rizk@hayward-ca.gov; greg.jones@hayward-ca.gov; maureen.conneely@hayward-ca.gov; michael.sweeney@hayward-ca.gov; lschulkind@lcwlegal.com; myang@lcwlegal.com; hmrenergy@msn.com; lindampaulh@msn.com; diana.graves@pillsburylaw.com; michael.hindus@pillsburylaw.com; ronald.vanbuskirk@pillsburylaw.com; greg.trewitt@tierraenergy.com; wulf@vs-comm.com
Cc: Bpfanner@energy.state.ca.us; Cholmes@energy.state.ca.us; Mstratta@energy.state.ca.us; Sgefter@energy.state.ca.us
Subject: Eastshore Energy Center: 06-AFC-06

The purpose of this e-mail is to provide a draft table and related map to address the concerns raised by Hearing Officer Gefter regarding distance measurements associated with the Eastshore Energy Center proceedings. A couple of notes regarding the attached materials:

1. Applicant coordinated with Bob Bauman, City of Hayward, regarding the compilation of this data. Bob requested that all measurements be calculated from the center-to-center of each location and we agreed to calculate the measurements in this manner. Therefore, unless otherwise noted, all distances on the attached table and map are measured from center-to-center. These measurements have been meticulously checked by my technical and GIS staff to ensure accuracy. We would not object to using distances measured boundary-to-boundary, unless otherwise noted, but as noted above, all of our measurements were generated from center-to-center.

2. We appreciate the efforts of all parties who have submitted information.

3. We have reviewed all of the distance-related materials e-mailed to date from all parties. In general we have been able to re-create all of the measurements made by the various parties, and point out that there are some typographical errors on the CEC's tables, but we interpret their measurements, for the most part, to be those that would apply based upon the description of the measurement method in the right hand column of their table.

4. At this time, we do not believe that we can reach consensus for the aviation-related measurements, with the exception of the distances from Eastshore and RCEC to the Hayward Executive Airport and the Oakland International Airport, as these items involve the interpretation of plans and policies. Should the Hearing Officer request that additional effort on behalf of all of the parties be spent on this issue, we would be happy to continue to work through these few items next week and and take the lead on this item.

ACTION PLAN:

Understanding the late nature of all of this information coming together, we are presently planning to solicit your feedback on these items, especially from those parties who have not already docketed information, by 3:00 p.m. today. We will then prepare a cover letter to the Hearing Officer explaining, by party, where there is agreement with our table and map, and then formally docket this material at the CEC by close of business today, as requested by the Hearing Officer.

Please feel to contact me should you have any questions.

Jennifer Scholl

Senior Project Manager/Regulatory Specialist

CH2M HILL

610 Anacapa Street

Santa Barbara, CA 93101

Telephone: (805) 568-0650

Cell Phone: (805) 895-4731

Fax: (714) 424-2016