

LIEBERT CASSIDY WHITMORE  
A Professional Law Corporation  
153 Townsend Street, Suite 520  
San Francisco, CA 94107

1 Laura Schulkind, Bar No. 129799  
lschulkind@lcwlegal.com  
2 Arlin Kachalia, Bar No. 193752  
akachalia@lcwlegal.com  
3 LIEBERT CASSIDY WHITMORE  
A Professional Law Corporation  
4 153 Townsend Street, Suite 520  
San Francisco, CA 94107  
5 Telephone: (415) 512-3000  
Facsimile: (415) 856-0306  
6 Attorneys for Intervenor  
Chabot-Los Positas Community College District

7  
8 Charlotte Lofft, President  
clofft@chabotcollege.edu  
9 Susan Sperling, Grievance Officer  
ssperling@chabotcollege.edu  
Faculty Association  
10 Chabot College  
25555 Hesperian Blvd  
11 Hayward, CA 94545  
510-723-6873  
12 Representatives for Intervenor  
Chabot-Las Positas Faculty Association

13  
14  
15 STATE OF CALIFORNIA  
State Energy Resources  
16 Conservation and Development Commission

17  
18 In the Matter of:

19  
20 **Application for Certification For the  
Eastshore Energy Center**

Docket No. 06-AFC-06

**CHABOT-LAS POSITAS COMMUNITY  
COLLEGE DISTRICT INTERVENORS'  
OPPOSITION TO APPLICANT'S  
MOTION TO REOPEN THE  
EVIDENTIARY RECORD AND NOTICE  
OF JOINDER TO COUNTY OF  
ALAMEDA'S OPPOSITION**

Dates: July 21, 2008

CEC: Jeffrey D. Byron  
Commissioner and Presiding  
Member

Hearing Officer: Susan Geftter

01-AFC-7C

DOCKET	
06-AFC-6	
DATE	JUL 21 2008
RECD.	JUL 28 2008

1           **TO THE COMMISSION, PRESIDING MEMBER COMMISSIONER BYRON,**  
2 **HEARING OFFICER SUSANGEFTER, THE PARTIES AND THEIR ATTORNEYS OF**  
3 **RECORD, AND OTHER INTERESTED PERSONS:**

4           Please take notice that Intervenors Chabot-Las Positas Community College District  
5 (“District”) and Chabot Faculty Association (collectively “Chabot Intervenors”) hereby submit  
6 their opposition to Applicant Eastshore Energy Center’s Motion to Reopen the Evidentiary  
7 Record in case 06-AFC-06. The Chabot Intervenors file this notice of joinder to the County of  
8 Alameda’s opposition to the motion to reopen and, without repeating the arguments, incorporate  
9 by reference the County’s arguments in its opposition.

10           In relevant part, the Chabot Intervenors oppose the Applicant’s Motion to Reopen on the  
11 following grounds:

- 12           1.     Applicant’s Motion is untimely and Applicant has failed to show good cause of its  
13                 delay.
- 14           2.     Applicant’s proposed evidence is neither new nor material.
- 15           3.     Applicant’s proposed new evidence or test will be cumulative of the existing  
16                 evidence and will contain similarly flawed data. This would be an exercise of  
17                 futility.

18           The Chabot Intervenors respectfully request the Commission to deny Applicant’s Motion  
19 to Reopen the Record, and to deny Applicant’s application for certification. Chabot Las Positas  
20 Community College District serves the general community, as well as a large population of  
21 students and employees. On behalf of its constituents and this community, the Chabot  
22 Intervenors ask for closure – finality to these proceeding. This proceeding should not be delayed  
23 any further for the purposes of presenting evidence that is neither new nor material.

24           Further, the interests of judicial economy are better served if the Commission denies  
25 Applicant’s motion. Applicant is unhappy with the Proposed Decision and seeks to supplement  
26 the record with additional evidence essentially to rebut its analysis and findings. To grant this  
27 request opens the door to any dissatisfied party (of which there will be at least one in every  
28

1 proceeding) who wishes to develop and submit additional evidence in response to the reasoning  
2 and findings of the proposed decision.

3 For the foregoing reasons, Chabot Intervenors respectfully request that the motion to  
4 reopen be DENIED.

5  
6 Dated: July 28, 2008

LIEBERT CASSIDY WHITMORE

7  
8 By: Arlin Kachalia  
9 Laura Schulkind  
10 Arlin B. Kachalia  
11 Attorneys for Intervenor  
12 Chabot-Los Positas Community College  
13 District

LIEBERT CASSIDY WHITMORE  
A Professional Law Corporation  
153 Townsend Street, Suite 520  
San Francisco, CA 94107

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 4/21/2008)

**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-14  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto: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](mailto:greg.trewitt@tierraenergy.com)

Harry Rubin, Executive Vice President  
RAMCO Generating Two  
1769 Orvietto Drive  
Roseville, CA 95661  
[hmrenergy@msn.com](mailto:hmrenergy@msn.com)

**COUNSEL FOR APPLICANT**

Jane Luckhardt, Esq.  
Downey Brand Law Firm  
555 Capitol Mall, 10th Floor  
Sacramento, CA 95814  
[jluckhardt@downeybrand.com](mailto:jluckhardt@downeybrand.com)

**APPLICANT'S CONSULTANTS**

David A. Stein, PE  
Vice President  
CH2M HILL  
155 Grand Avenue, Suite 1000  
Oakland, CA 94612  
[dstein@ch2m.com](mailto:dstein@ch2m.com)

**INTERESTED AGENCIES**

Jennifer Scholl  
Senior Program Manager  
CH2M HILL  
610 Anacapa Street, Suite B5  
Santa Barbara, CA 93101  
[jscholl@ch2m.com](mailto:jscholl@ch2m.com)

Larry Tobias  
CA Independent System Operator  
151 Blue Ravine Road  
Folsom, CA 95630  
[ltobias@caiso.com](mailto: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](mailto:greg.jones@hayward-ca.gov)  
[michael.sweeney@hayward-ca.gov](mailto:michael.sweeney@hayward-ca.gov)  
[maureen.conneely@hayward-ca.gov](mailto:maureen.conneely@hayward-ca.gov)  
[david.rizk@hayward-ca.gov](mailto:david.rizk@hayward-ca.gov)

Pillsbury Winthrop Shaw Pittman LLP.  
Att: Diana Graves, Esq  
Att: Michael Hindus, Esq  
Att: Todd Smith  
50 Fremont Street  
San Francisco, CA 94120  
[diana.graves@pillsburylaw.com](mailto:diana.graves@pillsburylaw.com)  
[michael.hindus@pillsburylaw.com](mailto:michael.hindus@pillsburylaw.com)  
[ronald.vanbuskirk@pillsburylaw.com](mailto:ronald.vanbuskirk@pillsburylaw.com)  
[todd.smith@pillsburylaw.com](mailto:todd.smith@pillsburylaw.com)

Paul N. Haavik  
25087 Eden Avenue  
Hayward, CA 94545  
[lindampaulh@msn.com](mailto: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](mailto:james.sorensen@acgov.org)  
[chris.bazar@acgov.org](mailto:chris.bazar@acgov.org)  
[cindy.horvath@acgov.org](mailto:cindy.horvath@acgov.org)

Charlotte Lofft & Susan Sperling  
Chabot College Faculty Association  
25555 Hesperian Way  
Hayward, CA 94545  
[clofft@chabotcollege.edu](mailto:clofft@chabotcollege.edu)  
[ssperling@chabotcollege.edu](mailto:ssperling@chabotcollege.edu)

Law Office of Jewell J. Hargleroad  
Jewell J. Hargleroad, Esq  
1090 B Street, No. 104  
Hayward, CA 94541  
[jewellhargleroad@mac.com](mailto: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](mailto:jwhite747@comcast.net)  
[slzvha@aol.com](mailto:slzvha@aol.com)  
[wulf@vs-comm.com](mailto:wulf@vs-comm.com)  
[suzbarba@comcast.net](mailto:suzbarba@comcast.net)

Richard Winnie, Esq.  
Alameda County Counsel  
Att: Andrew Massey, Esq.  
Lindsey G. Stern, Esq.  
Brian Washington  
1221 Oak Street, Rm 463  
Oakland, CA 94612  
[richard.winnie@acgov.org](mailto:richard.winnie@acgov.org)  
[andrew.massey@acgov.org](mailto:andrew.massey@acgov.org)  
[Lindsey.stern@acgov.org](mailto:Lindsey.stern@acgov.org)  
[Brian.Washington@acgov.org](mailto:Brian.Washington@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](mailto:lschulkind@lcwlegal.com)  
[akachalia@lcwlegal.com](mailto:akachalia@lcwlegal.com)

Robert Sarvey  
501 W. Grantline Rd  
Tracy, CA, 95376  
[Sarveybob@aol.com](mailto:Sarveybob@aol.com)

**ENERGY COMMISSION**

Jeffrey D. Byron  
Commissioner and Presiding Member  
[jbyron@energy.state.ca.us](mailto:jbyron@energy.state.ca.us)

Susan Gefter, Hearing Officer  
[sgefter@energy.state.ca.us](mailto:sgefter@energy.state.ca.us)

Bill Pfanner, Project Manager  
[bpfanner@energy.state.ca.us](mailto:bpfanner@energy.state.ca.us)

Caryn Holmes, Staff Counsel  
[cholmes@energy.state.ca.us](mailto:cholmes@energy.state.ca.us)

Public Adviser  
[pao@energy.state.ca.us](mailto:pao@energy.state.ca.us)

**DECLARATION OF SERVICE**

I, Andrea Bolnick, declare that on July 28, 2008, I deposited copies of the attached Chabot-Las Positas Community College District Intervenors' Opposition to Applicant's Motion to Reopen the Evidentiary Record and Notice of Joinder to County of Alameda's Opposition, in the United States mail at San Francisco, 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.

  
Andrea Bolnick  
Andrea Bolnick