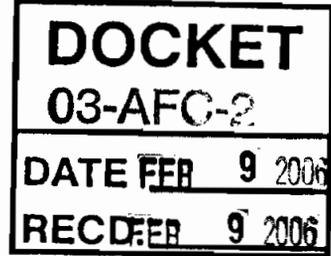


STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of: )  
)  
Application for Certification for the Los Esteros )  
Critical Energy Facility – Phase 2 )

Docket No. 03-AFC-2



APPLICANT'S STATUS REPORT #3

In Status Report #1 we reported that on December 6, 2005, representatives of the Applicant (Los Esteros Critical Energy Facility, LLC) met with Stephen Haase, Planning Director of the City of San Jose and members of his staff, to discuss the status of the Applicant's application for rezoning for the Los Esteros Critical Energy Facility. During the meeting it was agreed that the Applicant would submit to the City of San Jose a draft initial study for the LECEF Phase 2 project and that the City will use the Draft Initial Study to evaluate the environmental impacts of the LECEF Phase 2 project compared with the impacts that were analyzed in the original EIR. If there are no significant environmental impacts for the Phase 2 proposal that were not analyzed in the original EIR or that are not proposed to be mitigated, the City will prepare an Addendum to the original US Dataport EIR.

In Status Report #2 we reported that the Applicant submitted the draft Initial Study to the City on January 9, 2006. Consistent with the schedule previously discussed with the City, we expect that the City will complete review of the draft Initial Study in the first part of February (~30 days) and provide any comments and a determination as to whether the Addendum process or Supplemental EIR process is appropriate for the project.

On January 23, 2006 Mr. Tetzloff spoke with Mr. Buikema. Mr. Buikema stated that the City is still reviewing the initial study and plan to be finished "in another week or two." Based upon a follow-up conversation between the Applicant and the City on February 8, 2006, the Applicant believes that the City is on schedule to complete its review as previously agreed. In accordance with City policies, the Applicant will schedule a public informational meeting in February for the City to present the results of its review.

We will keep the Committee and other parties informed as we proceed through each of these milestones in the coming months.

February 9, 2006

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By 

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STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

Application for Certification for the )  
LOS ESTEROS CRITICAL ENERGY FACILITY ) Docket No. 03-AFC-2  
PHASE 2 )  
(LOS ESTEROS 2) )  
\_\_\_\_\_ )

**PROOF OF SERVICE**

I, Ron O'Connor, declare that on February 9, 2006, I deposited copies of the attached *Applicant's Status Report #3* in the United States mail in Sacramento, California, with first-class postage thereon fully prepaid and addressed to all parties on the attached service list.

I declare under the penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Ron O'Connor

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