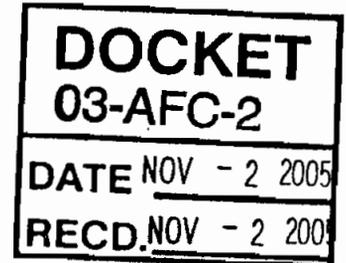




*Department of Parks, Recreation and Neighborhood Services*

October 31, 2005

Jackalyne Pfannenstiel, Vice Chair  
California Energy Commission  
1516 Ninth Street, Mail Stop No. 31  
Sacramento, CA 95814-5512



**SUBJECT:** Highway 237 Bikeway  
Los Esteros Critical Energy Facility Phase 2 Development

Dear Commissioner Pfannenstiel:

The following is an overview of the City of San José's relationship to the bikeway located north of Highway 237 (Bikeway) and its efforts to make improvements to the Bikeway. The Bikeway is located generally between the Guadalupe River and the Coyote Creek within the City limits.

**BACKGROUND**

The Bikeway is a paved facility that runs parallel to the north side of Highway 237 (Highway). The City believes that the Bikeway was temporarily constructed by Caltrans during development of the Highway in order to accommodate bicycle traffic until a formal, permanent bikeway could be installed on the south side of the Highway. This is evidenced by the Highway 237 environmental impact report (EIR), which states that the north side facility shall be used as a temporary facility until a south side bikeway can be developed. A south side facility was subsequently built by Caltrans and upon completion of the Highway it was opened to the public for use.<sup>1</sup> It is the City's understanding that the Bikeway has continued to be used as a bicycling facility despite its temporary nature and has not been maintained by Caltrans or any other entity. The current condition of the Bikeway is quite poor with deteriorated pavement and drainage issues.

It is the City's understanding that contractors for Los Esteros Critical Energy Facility, LLC (LECEF) may have used the Bikeway during construction of the LECEF and that other power companies and their contractors have used the Bikeway to construct their transmission lines located north of Highway 237.

<sup>1</sup> The City has been advised that the south side facility is currently closed for maintenance and repairs.

Jackalyne Pfannenstiel, Vice Chair  
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### RECENT DEVELOPMENTS

The City believes that the temporary nature, lack of maintenance and prior use of the Bikeway by the construction contractors has resulted in the Bikeway's currently deteriorated condition. Until recently, the City believed that the Bikeway was intended to be a permanent bikeway and that it may have been located in a City right of way. However, a review of parcel maps for the area has revealed that the underlying property for the Bikeway is actually owned in fee by the Water Pollution Control Plant (WPCP). The WPCP is owned and operated by a special district overseen by several cities in the South Bay area and not the City. WPCP staff has advised City staff that it is the intent of the WPCP to develop a master plan for its parcels in the north side Bikeway area, but WPCP does not know yet whether the master plan will include a public bikeway.

LECEF has offered the City a monetary contribution to support repairs to the Bikeway in the belief that the City would be obtaining a legal interest in the Bikeway, to the extent that it was not already in a City right of way, through a proposed maintenance agreement with Caltrans whereby the City would make improvements to, and maintain, the Bikeway. However, the City does not have any legal or ownership interest in the Bikeway and it is unlikely that the City will obtain any such interest given its unknown future. In light of these circumstances, the City is unable to accept LECEF's offer to assist the City with making repairs to the Bikeway.

### CONCLUSION

Although the City is not able to participate in the repair or maintenance of the Bikeway at this time, the City is sensitive to the needs and concerns of the local bicycling community and it is the intent of the City to work with the public and other interested parties in developing an integrated off-street and on-street bicycle and pedestrian network that includes the permanent Highway 237 south side bikeway. The City will also seek to work with WPCP as they commence their master planning process and support discussions for integrating bicycle and pedestrian access whenever feasible.

Thank you for considering this information. I would encourage you to contact Yves Zsutty at (408) 793-5561, if you have any questions about this matter.

Sincerely,

  
for Sara L. Hensley  
Director of Parks, Recreation and  
Neighborhood Services

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

APPLICATION FOR CERTIFICATION  
FOR THE LOS ESTEROS CRITICAL  
ENERGY FACILITY, PHASE 2  
(LOS ESTEROS 2)

DOCKET No. 03-AFC-2

(Revised 7/29/05)

**PROOF OF SERVICE**

**DOCKET UNIT**

*Instructions: Send an original signed document plus 12 copies and/or an electronic copy plus one printed copy to the address below:*

CALIFORNIA ENERGY COMMISSION  
DOCKET UNIT, MS-4  
Attn: Docket No. 03-AFC-2  
1516 Ninth Street  
Sacramento, CA 95814-5512  
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*Also send a printed or electronic copy of all documents to each of the following:*

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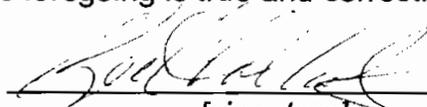
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#### **DECLARATION OF SERVICE**

I, **Keith A. Muntz** declare that on **November 2, 2005**, I deposited copies of the attached **City of San Jose Letter dated October 31, 2005 regarding the Highway 237 Bikeway** in the United States mail at Sacramento, CA with first class postage thereon fully prepaid and addressed those identified on the Proof of Service list above. Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

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

  
\_\_\_\_\_  
[signature]

## INTERNAL DISTRIBUTION LIST

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