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STATE OF CALIFORNIA

ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of: The Application for Certification for the LSP SOUTH BAY, LLC SOUTH BAY REPLACEMENT PROJECT	Docket No. 06-AFC-3

REQUEST FOR EXTENSION OF TIME TO SUBMIT DATA REQUESTS BY ENVIRONMENTAL HEALTH COALITION

February 22, 2007

Osa L. Wolff
Kevin P. Bundy
Shute, Mihaly & Weinberger LLP
396 Hayes Street
San Francisco, CA 94102
(415) 552-7272
(415) 552-5816 Fax
wolff@smwlaw.com
bundy@smwlaw.com

Attorneys for the
ENVIRONMENTAL HEALTH
COALITION

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The Environmental Health Coalition ("EHC") respectfully requests a 28-day extension of time – until March 26, 2007 – to submit data requests in this proceeding. Pursuant to section 1716(e) of title 20 of the California Code of Regulations, data requests must be submitted "no later than 180 days from the date the commission determines an application is complete." In this case, the commission deemed the AFC complete on August 30, 2006, and data requests would ordinarily be due on February 23, 2007. However, the committee may allow requests for information "at a later time for good cause shown." (Cal. Code Regs., tit. 20, § 1716, subd. (e).) Good cause exists here for an extension of the deadline.

First, commission staff advised EHC early in this proceeding to refrain from submitting data requests until staff data requests and responses were complete. Although staff submitted its data requests to the applicant on October

31, 2006, the applicant did not provide complete responses until February 14, 2007. The second set of responses (Set 1B) contains technical information on air quality and public health issues of great concern to EHC. Until today, EHC had been planning to participate actively in a public Data Response Workshop (originally scheduled for February 26, 2007) regarding these issues. That workshop has been cancelled at the applicant's request. Absent an extension, EHC will be precluded from submitting any further data requests based on information discussed at that workshop, when and if it is rescheduled. In sum, the short time available for review of the applicant's responses and the delay in scheduling the Data Response Workshop constitute good cause for a 28-day extension of time to complete discovery in this proceeding.

Second, there are now serious questions regarding whether this AFC proceeding will continue. At a January 18, 2007 workshop conducted jointly by the City and the San Diego Unified Port District, Port Commissioners stated that they would not enter into a lease/option agreement allowing the applicant to construct the project as proposed if the City of Chula Vista disapproved. On February 20, 2007, the Chula Vista City Council unanimously expressed opposition to a new power plant at the site specified in the AFC. The Port Commission is expected to consider this issue in mid-March. In its February 13, 2007 status report, staff recognized "the potential for a project site control issue" if the Port Commission does not offer a lease/option or other similar agreement to the applicant. Although the applicant has not yet requested that this proceeding be

suspended, the applicant has publicly stated its willingness to discuss alternative sites with local government officials and community members. A 28-day extension of time to submit data requests would allow participants in this proceeding to avoid committing scarce resources to the expert and legal fees associated with discovery until they know whether and when this AFC will be moving forward.

Finally, EHC's request for an extension will not delay this proceeding. Staff and one other intervenor have requested a similar extension of time, citing similar reasons. It would be most efficient for all parties to have a single deadline for submission of data requests.

For the foregoing reasons, EHC respectfully requests that the committee grant a 28-day extension, until March 26, 2007, to submit data requests in this proceeding.

Dated: February 22, 2007

Respectfully Submitted,

SHUTE, MIHALY & WEINBERGER LLP

Osa L. Wolff
Kevin P. Bundy

Attorneys for the
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PROOF OF SERVICE

I, Patricia Spencer, declare that on February 22, 2007, I deposited copies of the attached Request for Extension of Time to Submit Data Requests in the United States mail at San Francisco, California, with first class postage thereon fully prepaid and addressed to the following:

[see attached list]

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

P. Spencer

Patricia Spencer

Via U.S. Mail:

California Energy Commission
Attn: Docket No. 06-AFC-3
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

Via email:

docket@energy.state.ca.us
jgeesman@energy.state.ca.us
pflint@energy.state.ca.us
pao@energy.state.ca.us
gshean@energy.state.ca.us
bpfanner@energy.state.ca.us
kwillis@energy.state.ca.us
kjohnson@lspower.com
cte@eslawfirm.com
robert.mason@ch2m.com
sarah.madams@ch2m.com
easaltmarsh@eob.ca.gov
mdjoseph@adamsbroadwell.com
speesapati@adamsbroadwell.com
gsmith@adamsbroadwell.com