

California Native Plant Society

East Bay Chapter

P O Box 5597, Elmwood Station, Berkeley, CA 94705

Weyman Lee, P.E.
Senior Air Quality Engineer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

RECEIVED
09 FEB 26 AM 11:
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Feb. 6, 2009

Dear Mr. Lee:

The East Bay Chapter of the California Native Plant Society (EBCNPS) appreciates the opportunity to offer comment on the Bay Area Air Quality Management District's proposed PSD Permit for the Russell City Energy Center. The California Native Plant Society is a non-profit organization of more than 10,000 laypersons, professional botanists, and academics in 32 chapters throughout California. The Society's mission is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat through scientific activities, education, and conservation.

With respect to the PSD permit, EBCNPS is particularly interested in the air quality impacts to sensitive natural resources. The proposed Russell City Energy Center has been an extremely complicated project extending over 8 years, involving serious legal disputes and input from community organizations, multiple agencies at every level of government from the local to the federal, and many members of the public. The Statement of Basis has surprisingly little to say about impacts to the adjacent wetlands. Therefore, we find it necessary to address various contextual aspects of the project as well as offering specific comments and questions on the Statement of Basis for the PSD permit. We also comment on the process itself and whether the public's legal right to know, to comment, and to receive responses to comment has been duly served. After all, this project, should it be approved and built, will be the 5th largest point source for air emissions in the entire Bay Area.

The Scientific Context: Quality of Analysis

EBCNPS came late to the issue last year not having received public notice from any of the agencies. However, having reviewed the public documents, consultants' reports, and letters from agencies, we are stunned at the lack of consideration given to the impacts of RCEC to these important wetlands. The salt marsh community is listed in the California Natural Diversity Database as sensitive, containing special status native plant species and providing habitat for many different state and federally listed birds and mammals.

Attachment 1 lists the Special Status Plant Species Potentially Occurring in the RCEC project area (original site). This list was compiled by the consultant for the original



Dedicated to the preservation of California native flora

RCEC site on the basis of just one survey conducted in the spring. Because the survey did not follow accepted protocols which call for multiple site visits throughout the blooming season, the consultant missed a population of *Centromadia parryi* ssp. *congdonii* (formerly *Hemizonia parryi* ssp. *congdonii*) at the vernal pool at the project site. The consultant also incorrectly indicated that there would be no habitat for this CNPS List 1 B plant in the project area, as indicated in the attached Table. The consultant's report does not indicate whether the Hayward Regional Shoreline was surveyed. Presumably the consultant also did not survey the serpentine outcrops in the hills to the east where there would be maximum annual impacts from NOx and where there are known rare plant populations of *Streptanthus albidus* var. *peramoenus*. Nitrogen deposition on serpentine can have indirect negative impacts to special status plant species (see below, Lessons of Metcalf).

Thus far, there has been no analysis of air quality impacts to the special status wildlife in the salt marsh, mud flats, and other wetland communities at the Hayward Regional Shoreline. These wetlands play a critical role in the ecological health of the area. They are the "kidneys" that filter the Bay waters, removing toxic compounds, including heavy metals. These compounds can be stored in plant tissues and in sediment, and they can also bioaccumulate and move up food chains to affect wildlife. The wetlands are important feeding grounds and stopover points in the Pacific Flyway for migratory waterfowl, earning the Hayward Regional Shoreline designation as an Important Bird Area. Because BAAQMD is charged with showing that a major industrial project such as RCEC will have no significant impacts from air emissions to the sensitive wetlands communities adjacent to the shoreline, the Statement of Basis must include solid evidence of analysis and conclusive evidence that significant impacts will not occur before it can grant a PSD permit. This is a very tall order indeed given the size and nature of the project and the proximity of the wetlands. This task is even further magnified by the decision to allow emission offsets for NO2 and POC.

The Science Behind BAAQMD's Conclusions

In order for the public to be reassured (and for BAAQMD to prove) that the agency has done its job of protecting sensitive receptors (including human beings and sensitive natural resources) from the impacts of air emissions from RCEC, there has to be some connection made between conclusions drawn from computer modeling and the real world context where impacts would be made. The Statement of Basis fails to make this connection. While there are many pages of tables that describe various emissions, toxic compounds, and limits on emissions, the only graphic in the entire document that indicates a connection between the results of the model and the actual sites is an aerial photo in Appendix E on page 158 (Figure 1. Location of project maximum impacts). It appears again in Appendix C, Page 89. There is no scale to indicate distance nor is the photo labeled to indicate sensitive receptors in the adjacent wetlands or locations of groups of human receptors such as schools, colleges, residences, or businesses. The only reference geographic location mentioned is the Fremont- Chapel Way Monitoring Station, 18.3 km away from the site, and the source of background modeling data used to simulate the air at the proposed plant site. There is little opportunity for the reader to

examine the assumptions made regarding the models nor any discussion of the interpretation made from these models. And, of critical importance there are no graphics that show the area covered by the model for the toxic emissions.

Since much of the data for these tables is derived from the applicant's operation of other power plants, there is no indication of potential bias or inaccuracy in this data. This data forms the input to the computer models that are then used to describe the levels of emissions and whether they meet established standards and whether they have significant impacts. There are also no statements regarding the statistical limits of confidence that would apply to the results of the models themselves. From a scientific point of view, conclusions drawn between the modeling and the real world of impacts are highly suspect in terms of their accuracy and predictability.

And when no analysis is even attempted, as is the case with nitrogen deposition and its indirect impacts upon sensitive plant communities through fertilization of invasive grass species such as *Spartina alterniflora* or *Lolium multiflorum*, one cannot draw the conclusion of no significant impact from nitrogen emissions. Instead BAAQMD states that "Maximum project NO₂, CO, SO₂, and PM₁₀ concentrations would be less than all of the national primary and secondary ambient air quality standards which are designed to protect the public welfare from any known or anticipated effects, including plant damage. Therefore, the facility's impact on soils and vegetation would be insignificant." (Appendix E, Page 160). Given BAAQMD's prior experience with the Metcalf Energy Center, it is clear that the District chose not to address *any known or anticipated effects* of nitrogen deposition (see below, Lessons of Metcalf).

Similarly, in the case of the toxic emissions impacts, no attempt was made to look at sensitive receptors such as small mammals and birds in the adjacent marsh. Assumptions about levels of impact to human bodies from toxic emissions cannot be applied to small mammals and birds. There is a well known relationship between body mass and metabolic rate—the larger the body mass the slower the metabolic rate. Small mammals and birds respire and metabolize at a much higher rate than human beings, and their life spans are also much shorter (two traits that make them useful for lab testing of toxic and carcinogenic compounds). Thus, one cannot conclude that the federally endangered Salt marsh harvest mice or any of the birds utilizing the wetlands are safe from toxic impacts of air emissions even if models show no effects to humans. In addition, since the emissions from the power plant will deposit on plants that form the diet of some of these animals, there is a second route of exposure. There is also the possibility that some toxic compounds will bioaccumulate—a phenomenon never mentioned in the Statement of Basis.

With respect to the chronic exposure modeling, the assumption is made that chronic exposure to the toxic compounds will last only one year (Appendix D, Page 151). The time frame makes no sense. Presumably the power plant would be in operation for perhaps decades-- certainly more than a year. The toxic compounds associated with the operation of the plant therefore continue to be emitted over the lifetime of the facility. Therefore, the results of the chronic toxicity models are completely invalid based on

underreporting. Finally, the toxic modeling does not include background levels of carcinogenic or toxic compounds from other sources. Therefore, the true body burden or critical load of these compounds in nearby sensitive receptors is never expressed.

Lessons from Metcalf

The Statement of Basis refers often to information and data taken from the operation of the Metcalf Energy Center, another Calpine power plant near San Jose. Therefore, it seems fair and appropriate to refer to the case of Metcalf in addressing how differently the impacts to sensitive natural resources have been handled with respect to RCEC. The CEC held a public workshop on 10/27/99 in the San Jose area attended by representatives of the Santa Clara Chapter of the California Native Plant Society, Calpine, the US Fish and Wildlife Service, and others in the San Jose area. The purpose of the meeting was to address the biological impacts of air emissions from MEC—among them, nitrogen deposition and its fertilizing effects on non-native grasses on nearby serpentine soils. The concerns were that the non-native grasses would out compete the native larval hostplant for the federally endangered Bay Checkerspot Butterfly. As a result of these and other meetings, the air emissions were mitigated through acquisition of 100 acres of land on Coyote Ridge managed by the Silicon Valley Land Conservancy.

By contrast, no public meeting was ever held to review the air quality impacts of RCEC to the sensitive wetlands at the Hayward Regional Shoreline despite the fact that there are numerous federally and state listed species at this site and that the proposed RCEC site is less than 1500 feet from the wetlands. Although initially, a request for a formal Biological Opinion was initiated by the East Bay Regional Park District which sought information on the various impacts of RCEC, including air quality impacts to listed plant and animal species (see attachment 2), Calpine eventually withdrew from the site and moved the proposed plant to a new paved site some 1300 feet to the northwest.

Since the CEC refused to re-open the environmental review of the project, despite the East Bay Regional Park District's repeated request for information on air quality impacts (see attachment 3), and because BAAQMD's Statement of Basis still does not address these, there has never been an analysis of the air quality impacts to the sensitive natural resources at the Hayward Shoreline. Accordingly, there are also no mitigations for the project's emissions.

Analysis of Secondary Growth

The Statement of Basis concludes on page 16 that the project will not cause any secondary growth. Yet it already has. The local water treatment plant was expanded to handle the anticipated amount of cooling water that the original plant design called for.

Often once a high impact project has been approved in an area, it paves the way for other similar projects. The Eastshore power plant was once such example, though it has since been denied.

BACT Cost-effectiveness Data

The inclusion of Appendix F, entitled BACT Cost-effectiveness Data, is a bewildering addition to the Statement of Basis. First, the appendix consists of portions of two reports addressing a cost analysis of NOx Control Alternatives and a BACT analysis. These reports are 10 and 9 years old respectively. This information is unacceptably out of date. Second, the appendix consists of barely readable excerpts pulled from the reports with no accompanying explanation. As such the information is meaningless.

The Procedural Context

The Lack of CEQA Equivalence

Although the process by which the California Energy Commission regulates power plant siting is supposed to be equivalent to the CEQA process, there are many ways in which it is a poor substitute. Usually and as a matter of course, the lead agency is located in the vicinity where a project is proposed. This facilitates the important role of public participation. While the CEC has the option of conducting local meetings to gain public response (see above, Lessons from Metcalf), CEC has conducted its meetings in Sacramento far from Hayward where RCEC would be built, placing a burden on members of the public who cannot get away from work to attend hearings and offer comment.

In addition, as lead agency, the CEC is supposed to coordinate the input from regulatory agencies and be sure that agencies are informed of meetings and deadlines. CEC failed to notice the California Department of Fish and Game regarding its meeting to hear the applicant's request for a second extension. When a CDFG biologist learned of the hearing and attempted to speak, she was cut off, although CDFG has regulatory standing by virtue of the state listed plants and animals at the Hayward Shoreline. Nor has the CEC responded to a letter from the East Bay Regional Park District (see attachment 1) requesting information on various impacts. The CEC has also failed to respond in writing to written comments from the public submitted during the allowed comment period, an important requirement of CEQA.

Access and transparency

Until the recent decision by the EPA appeals board to require BAAQMD to re-hear the PSD permit, the Air District has appeared to have been hostile to public comment. Once the noticing violation came to light, the District should have granted its mistake and reopened the public record to comment. Instead, the District chose an adversarial route and attempted to prevent further input. This state of affairs does damage to the District's credibility as a regulatory agency.

Now that we have the opportunity to comment on the amassed materials underlying the proposed decision to grant the PSD permit, it's possible to analyze the quality of the information provided to the public and whether it assists or prevents understanding. BAAQMD's Statement of Basis for the proposed PSD permit is an example of a document that unnecessarily challenges public understanding. It is poorly organized so that the reader does not know whether information is current or part of a previous document that no longer fully pertains. There are passages of language that have been stricken from the record so that the reader encounters random sentences with lines through them without any explanation. The reader must hunt throughout the document to try to compare information in order to understand the basis for various decisions. In part, this problem arises from the fact that, once the RCEC changed sites and fundamental aspects of its design, it should have been considered a new project and been required to start at the beginning of the process rather than being granted several extensions.

Other confusing aspects of the Statement of Basis document include the way that technical information is displayed and expressed. Units of measure and their abbreviations on tables are not defined, or the units are switched from mass to volume or their time frames are changed without corresponding changes in units. Sometimes there is no agreement between what emissions are per hour and what they would be per day if one multiplies the one-hour rates by 24. Tables with similar information appearing throughout the document do not consistently bear the footnotes that explain critical aspects of the information and assumptions made. For instance in the beginning of the document Table 6 on page 15, Maximum Facility Toxic Air Contaminants, contains no footnotes to show which emissions are carcinogenic, while Table B-7, Worst-Case Annual TAC Emissions for Gas Turbines and HRSGs, is buried in Appendix B on page 145 and does indicate which compounds are carcinogenic; however, nowhere is hexavalent chromium identified as a carcinogen. The District has not made clear whether the cooling tower will use 135,000 gpm of water (see Table B-4, page 143) or 141,352 gpm (Appendix B, Page 145). Since these are not small differences and Total Dissolved Solids (hence particulate matter) are calculated from the water flow, they call into question what other inaccuracies may be in the document.

BAAQMD's Role in Informing the Public

The public hearing in Hayward two weeks ago made clear that a certain segment of the population was under the misconception that building and operating the RCEC would mean that older dirtier power plants would be closed. In point of fact, the Air District has no decision-making ability as to whether a plant closes. That is the decision of the ISO, the plant operator. To let stand that misimpression is disingenuous, since it fails to make clear that there will not be a net gain in air quality should RCEC come online.

BAAQMD has a significant public information campaign underway for its Spare the Air program. There are notices on the daily weather page of the San Francisco Chronicle, TV commercials, news spots, and outdoor signs posted. There is now an enforcement program in place whereby residential offenders are to be fined. All of this campaign is

directed toward informing the public about the importance of decreasing particulate matter in the Bay Area air basin from wood-burning and about the Air District's role in promoting air quality. While the Spare the Air program is important, it seems inconsistent to insist that the public do its fair share on the one hand, while the District is proposing to issue a permit to RCEC for the right to emit massive amounts of particulate matter into the air.

Even more significantly, BAAQMD posts a table on its website entitled, "Ambient Air Quality Standards & Bay Area Attainment Status." Under Particulate Matter Fine (PM_{2.5}), footnote 10 states, "U.S. EPA lowered the 24-hour PM 2.5 standard from 65 $\mu\text{g}/\text{m}^3$ to 35 $\mu\text{g}/\text{m}^3$ in 2006. EPA issued attainment status designations for the 35 $\mu\text{g}/\text{m}^3$ standard on December 22, 2008. EPA has designated the Bay Area as non-attainment for the 35 $\mu\text{g}/\text{m}^3$ PM_{2.5} standard. The EPA order will be effective in April, 2009, 90 days after publication of the EPA findings in the Federal Register." We could find virtually no mention of this in the Statement of Basis. Surely, the Air District is aware of this non-attainment status and new standard. In what way will the District address RCEC's contribution to particulate matter given the new status? Again, failure to mention this critical regulatory change in the Statement of Basis does great damage to the Air District's credibility.

Just a few weeks ago, the New England Journal of Medicine reported on the first epidemiological study showing that reducing air pollution translates into longer lives. Focusing on particulate matter in 51 cities, the researchers found on average particulate matter levels fell from 21 $\mu\text{g}/\text{m}^3$ to 14 $\mu\text{g}/\text{m}^3$ and that in these areas, people lived an average of 2.72 years longer. Given that the Bay Area is at nonattainment for the new 35 $\mu\text{g}/\text{m}^3$ level which is 2.5 times the 14 $\mu\text{g}/\text{m}^3$ cited above, we have a very long way to go to improve the quality of air that we breathe. We cannot afford an RCEC.

Conclusions

During the 8 years since the project was first proposed, we have passed through an unprecedented period of history bearing directly upon factors that would influence the siting of a major fossil fuel burning plant. The world has wakened to the threat of global warming from greenhouse gas emissions, California appears at last to be winning its battle with the federal government over the state's right to insist upon cleaner air, the energy market is experiencing a state of unprecedented volatility wherein the heavy reliance on fossil fuels has been shown to have enormous environmental, economic, and social costs, the global economy has been rocked to its foundations, and a new American president has promised us change that will move us closer toward beginning to rectify these ills. Perhaps most importantly, many people have begun to recognize their own responsibility to decrease their ecological footprint and have become increasingly sophisticated in the role they must play and in how they want their government and regulatory agencies to respond to the challenges that face us. Nowhere is that more apparent than in the Bay Area.

Now more than ever, against this progressive backdrop, the Russell City Energy Center appears as a problem looking for a solution rather than the other way around. As fossil fuel burning plants go, by comparison with a coal-burning plant for instance, RCEC might produce fewer emissions. However, from the beginning, the central irreconcilable problem has been its chosen location 1500 feet from sensitive wetlands that, by any standard, are to be accorded legal protection from its impacts. Although 8 long years have passed during which this project has persisted and hundreds of pages of documents have been produced, no amount of paper can conceal the obvious conclusion that basic common sense dictates: **locating a major power plant immediately next to a major wetland ecosystem means significant and unacceptable levels of impacts.**

We strongly urge the Bay Area Air Quality Management District to deny the PSD permit for the Russell City Energy Center.

Sincerely,



Laura Baker, M.A. Ecology and Systematic Biology
Conservation Committee Chair
East Bay Chapter of the California Native Plant Society

Attachment 1

Table 8.2-1. Special status plant species potentially occurring in the RCEC project area.

Scientific Name	Common Name	Federal/ State/ CNPS ^a	Source ^b	Habitat in impact area?	Blooms
<i>Astragalus tener</i> var. <i>tener</i>	Alkali milk-vetch	SC/--/1B	1,2	Yes	Mar-May
<i>Atriplex depressa</i>	Brittlescale	SC/--/1B	1	No	May-Oct
<i>Balsamorhiza macrolepis</i> var. <i>macrolepis</i>	Big-scale balsamroot	--/--/1B	2	No	Mar-June
<i>Cordylanthus maritimus</i> ssp. <i>palustris</i>	Point Reyes bird's-beak	SC/--/1B	1	Yes	Jun-Oct
<i>Cordylanthus mollis</i> ssp. <i>hispidus</i>	Hispid bird's beak	SC/R/1B	2	Marginal	Jul-Sep
<i>Fritillaria liliacea</i>	Fragrant fritillary	SC/--/1B	2	No	Feb-Apr
<i>Helianthella castanea</i>	Diablo rock rose	SC/--/1B	1	No	Apr-Jun
<i>Hemizonia parryi</i> ssp. <i>congdonii</i>	Congdon's tarplant	SC/--/1B	2	No	Jun-Nov
<i>Horkelia cuneata</i> ssp. <i>sericea</i>	Kellog's horkelia	SC/--/1B	2	No	Apr-Sept
<i>Lasthenia conjugens</i>	Contra Costa goldfields	E/--/1B	1,2	No	Mar-Jun
<i>Lathyrus jepsonii</i>	Delta tule pea	SC/--/1B	1	Marginal	May-Jun
<i>Lilaeopsis masonii</i>	Mason's lilaeopsis	SC/R/1B	1	No	Apr-Oct
<i>Plagiobothrys glaber</i>	Hairless popcorn flower	SC/--/1A	2	Yes	Apr-May
<i>Suaeda californica</i>	California seablite	PE/--/1B	1	Marginal	Jul-Oct

^a Status Categories:

Federal status determined from a USFWS letter (Knight 2001, personal communication). State status determined from *Special Plants List* (June 1999), and/or *State and Federally Listed Endangered, Threatened, and Rare Plants of California* (April 1999), prepared by CDFG Natural Diversity Data Base. CNPS status determined from *CNPS Inventory of Rare and Endangered Vascular Plants of California* (Skinner and Pavlik 1994). Codes used in table are as follows:

E = Endangered; T = Threatened; R = California Rare; PE = Proposed Endangered

C = Candidate: Taxa for which the USFWS has sufficient biological formation to support a proposal to list as endangered or threatened.

SC = USFWS Species of Concern: Taxa for which existing information may warrant listing, but for which substantial biological information to support a proposed rule is lacking.

SSC = CDFG "Species of Special Concern"

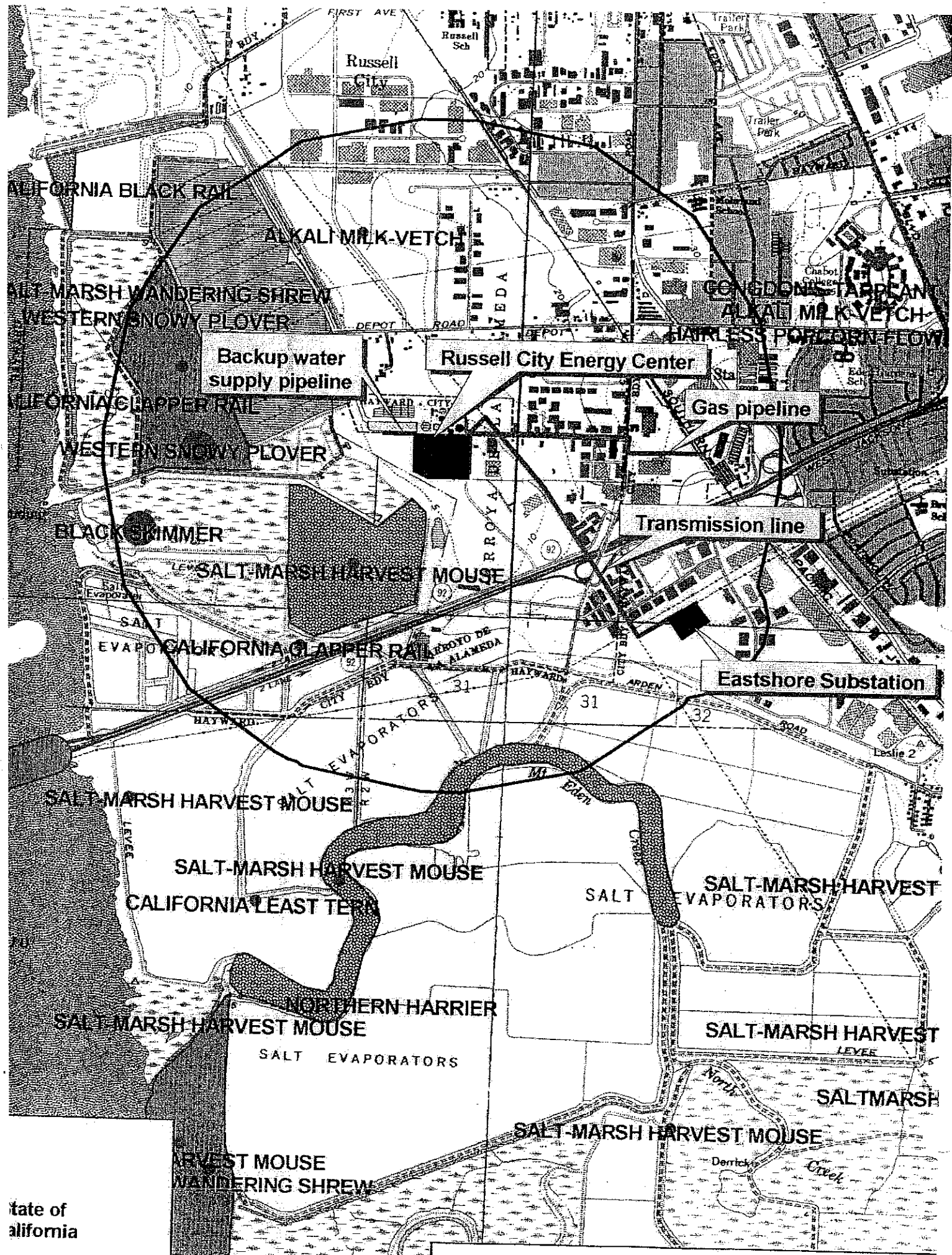
CNPS List: 1A = Presumed Extinct in CA; 1B = Rare or Endangered in CA and elsewhere; 2 = R/E in CA and more common elsewhere; 3 = Need more information; 4 = Plants of limited distribution.

-- = Species not state-listed.

^b Source: 1 = From USFWS letter (Knight 2001, personal communication). 2 = From CNDDDB/ RareFind.

Hispid bird's beak (*Cordylanthus mollis* ssp. *hispidus*)

- **Habitat and Biology:** Annual herb, hemiparasitic; CNPS List 1B; alkaline meadows and playas.
- **Blooming:** June to September
- **Range:** Alameda, Kern, Merced, Placer, and Solano counties.
- **CNDDDB/RareFind Records:** No records for this species on the USGS 7.5-minute San Leandro Quad.
- **Habitat Present in Study Area:** Marginal habitat occurs in alkaline soils in the project site and adjacent stormwater retention pond. Also in playas in Cogswell Marsh and HARD Marsh.



State of California

Attachment 2

5



JOE DIDONATO
<jdidonat@ebparks.o
rg>
12/05/01 10:13 AM

To: don_hankins@fws.gov
cc: rbeers@beerslaw.com, HAYWARD@ebparks.org,
LTONG@ebparks.org
Subject: Russel City Energy Plant

Hi Don,

Consider this an "official" request for information regarding exposure limits of sensitive species to noise, pollutants, emissions and bioaccumulants which can occur as a result of factories, power plants, etc.

We have had a consultant, Dr. Phyllis Fox, analyze the CalPine document for it's ability to recognize and mitigate these impacts. Briefly, she has identified acrolein as one of the most toxic substances in turbine exhaust. Acrolein emissions are higher during start up and shut down operations as a result of reduced combustion efficiency. There are at least 832 hours of start up mode scheduled for the plant.

For one opinion on acrolein, here is a website
<http://www.atsdr.cdc.gov/tfacts124.html>

Additionally, Dr. Fox has identified chlorination, as a result of the water utilized by the cooling towers, as a process which forms a class of toxic compounds known as THMs (trihalomethanes, including chloroform, bromodichloromethane and others.

Nitrogen, ammonia, and phosphorus residues emitted through the cooling towers can stimulate the growth of plants in the marshes, most notably *Spartina alterniflora*, the invasive cordgrass, which has severely affected the clapper rail habitat in Cogswell and other nearby marshes, including the Don Edwards NWR complex.

As I mentioned earlier, the "standard" location for noise impacts is recorded at 5 feet above ground. This is based on average height for humans. I think the noise and vibration anticipated from both construction and operation of the plant have been inadequately addressed as it pertains to ground-dwelling species like SMHM and rails.

Anyway, I'd appreciate any information or references you can share. My fax is 510-635-3478 or just return info via this email response. Looking forward to hearing from you.
Thanks

Todd Marse - EPA
Russell City

↳ lead agency for air and water

415 972-3976
fax 415 947-3579

marse.todd@epa.gov

↳ email also questions re? pt
bunns.

Attachment 3



2950 PERALTA OAKS COURT P.O. BOX 5381 OAKLAND CALIFORNIA 94605-0381 T. 1 888 EBPARKS F. 510 569 4319 TDD. 510 633 0460 WWW.EBPARKS.ORG

June 27, 2008

Dockets Unit
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, CA 95814

RE: Hayward Regional Shoreline
RCEC Project (01-AFC-7C)

California Energy Commission:

The East Bay Regional Park District has reviewed the notification of petition to extend the construction deadline for the Russell City Energy Center project (RCEC; 01-AFC-7C) and has the following comments regarding the proposed project. The Park District previously identified numerous concerns regarding direct park impacts from the original RCEC (01-AFC-7) project proposed at Enterprise Avenue and Whitesell Drive. The relocated RCEC (01-AFC-7C) project proposed at Depot Road has also raised a number of concerns from public stakeholders including, but not limited to, Alameda County, the California Native Plant Society, Audubon California, and various members of the public.

The Park District is concerned with the impacts of the proposed project to the Hayward Regional Shoreline area and reiterates its concerns as identified in the Park District's letters dated August 8, 2001 and August 20, 2001 (copies attached). The Park District requests that the impacts to the area be fully avoided and that the concerns that have been raised are fully addressed prior to the California Energy Commission decision regarding an extension to the construction deadline.

Sincerely,

Larry Tong
Interagency Planning Manager

Attachments:

- 1) Letter to Keese, Aug. 8, 2001
- 2) Letter to Keese, Aug. 20, 2001

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✓ L. Naumovich, California Native Plant Society – East Bay

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EAST BAY REGIONAL

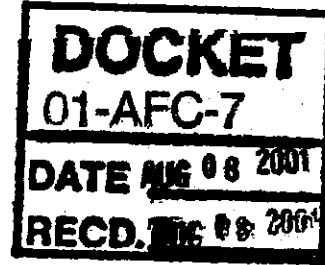


PARK DISTRICT

Letter regarding the area staff in areas listed below 8/2

August 8, 2001

William J. Keese
Chairman
Russell City AFC Committee
California Energy Commission



Re: Hayward Regional Shoreline
Russell City Energy Center, AFC (01-AFC-7)

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Dear Mr. Keese,

The East Bay Regional Park District's Hayward Regional Shoreline is in close proximity to the proposed Russell City Energy Center. The Hayward Shoreline facility includes salt, fresh, and brackish water marshes, seasonal wet lands and portions of the San Francisco Bay Trail. The Hayward Shoreline Marsh is a restoration project that relies on carefully balanced amounts of fresh and brackish waste water.

For the August 7, 2001 informational hearing, the District is submitting the following background materials for consideration:

- 1) Hayward Regional Shoreline informational brochure
- 2) Letter dated June 14, 2001 to the City of Hayward regarding the Russell City Energy Center
- 3) Letter dated August 6, 2001 to East Bay Municipal Utilities District regarding the Bayside Ground Water Treatment EIR

The District is concerned with potential significant impacts on parklands from the proposed project. In particular, the potential impacts include, but are not limited to, the following:

- Air Quality = parkland visitors, wildlife, vegetation, wetlands
- Biological Resources = wildlife, vegetation, wetlands
- Cultural Resources = parkland visitors
- Land Use = parkland usage
- Noise = parkland visitors, wildlife
- Socioeconomic = parkland visitors



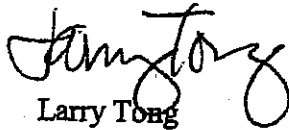
Mr. W. J. Keese
August 7, 2001
page 2

Visual Resources = parkland visitors
Waste Management = parkland visitors, wildlife, vegetation, wetlands

The District is also concerned with the potential significant impacts of the radio tower relocation on the Hayward Shoreline facility. Because the tower relocation is a critical part of the Russell City Energy Center's proposed project, we believe that its environmental impacts need to be considered as part of the proposed project as a whole, rather than in a piece-meal manner.

The District would like to work with the applicant and the California Energy Commission either to avoid the impacts or to mitigate them.

Sincerely,



Larry Tong
Interagency Planning Manager

enclosures (3)

cc R. Doyle, Assistant General Manager



August 20, 2001

William J. Keese
 Chairman
 Russell City AFC Committee
 California Energy Commission

Re: Hayward Regional Shoreline
 Russell City Energy Center, AFC (01-AFC-7)

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 General Manager

Dear Mr. Keese,

Thank you for the opportunity to submit additional testimony regarding the proposed Russell City Energy Center project. This letter is a follow up to the letter that the East Bay Regional Park District previously submitted. The District is very concerned that the proposed Russell City Energy Center project may result in a significant adverse impact on the environment. The most critical environmental concerns for the District are:

1. Significant impacts on wetlands, plant and animal species in Hayward Regional Shoreline park;
2. Significant impacts on scenic vistas in Hayward Regional Shoreline park;
3. Significant impacts from toxic pollutant emissions on the public and District employees in Hayward Regional Shoreline park; and
4. Significant impacts from noise impacts on the public and District employees and on animal species in Hayward Regional Shoreline park;

The project information fails to provide adequate analysis of the potentially significant impacts and the project does not include mitigations to those impacts. Additional analysis is needed as well as additional mitigations. The following comments provide additional clarification regarding these concerns.

Potential impacts on wetlands, plants and animals

The project information provides inadequate analysis of potential impacts on:

- seasonal wetlands;
- alkali grasslands;
- special status wildlife species, including, but not limited to, Burrowing Owl, Peregrin Falcon, Salt Marsh Harvest Mouse, and Clapper Rail;



- special status plant species, including, but not limited to Britblescale, Congdon's tarplant; Lathyrus; and spikerush.

Regarding biological resources, the project information states that with mitigation, the project would result in a "net benefit" to the environment. The project does not provide adequate information, such as where and how values were determined, to support the finding.

The project information states that "temporary fencing" will be provided to ensure that entry into the sensitive salt marsh areas is avoided. The project does not adequately discuss or provide mitigation for the potential long term loss of sensitive habitat.

The project information fails to adequately address potential impacts to the District's Salt Marsh Harvest Mouse Preserve. The preserve is contiguous with similar habitat owned by the City of Hayward. Runoff from the project during rain events, emergencies, and normal routine may carry toxic substances into these lands and be distributed throughout the preserve. Additionally, the hydraulic dynamics of the preserve are linked with the District's operation of the freshwater marsh. Draining the preserve is dependent on the management of the freshwater marsh and it can take several days to drain water to reduce the impacts to the preserve.

New available perches can increase predation or harassment of sensitive species by perching birds. The project information fails to identify the type of devices and document their level of success in reducing perching by predators.

The District has applied for grant funds to develop new California least tern habitat within the freshwater marsh. Development of the habitat will result in the likely increase in nesting of least terns and potentially western snowy plovers at the site.

The project fails to address the impact on migratory birds. The project's structures, lights, vibrations, low-level noise, and change in atmospheric temperature and vapors from the cooling towers could adversely impact the waterfowl. Up to 40,000 ducks and other waterfowl winter annually within the freshwater marsh at Hayward Regional Shoreline park. The birds are easily disturbed and frequently flush throughout the day and night hours. These birds fly at varying distances and heights after flushing, and are likely to come into contact with the proposed project buildings, structures, and screens. Increased mortality and injury, due to the bird's minimal ability to maneuver around obstacles, is likely.

Many of the potentially impacted plants would not be identifiable until December, rather than the February, March, and April times identified. Scientific surveys need to be taken at the appropriate time of year to determine the extent of potentially significant impacts to many of the special status plant species.

Potential impacts on scenic vistas

The project information does not adequately analyze the impact on scenic vistas from within the Hayward Regional Shoreline park.

Potential impacts from toxic pollutant emissions on the public and District employees

The project information fails to adequately analyze the significant impacts from bio-accumulation of air borne pollutant emissions on the public and District employees in Hayward Regional Shoreline park and the impact to wildlife from accumulation in animal tissue from ingestion of plants subject to the air borne pollutants.

Potential impacts from noise on the public and District employees

The project information fails to adequately analyze the significant impacts from noise on the public and District employees in Hayward Regional Shoreline park.

Sincerely,



Larry Tong
Interagency Planning Manager

cc

R. Doyle, Assistant General Manager