

09/15/09

Dear "District" (BAAQMD),

The apex of primary approach area for rotorcraft occurs at the proposed "Russell City Energy Center". Graphic presentation of this situation was provided to the California Energy Commission, concerning the "Russell City Energy Center" as well as the "Eastshore Energy Center" proposal. The stacks proposed for the "Russell City Energy Center" have even greater compression effect on available airspace for final approach areas of the SFO/ OAK/ Hayward vertical clearances. Rotorcraft at the bottom of this airspace are even more sensitive, as was specifically illustrated to the California Energy Commission regarding the "Eastshore Energy Center" testimony.

Specific regard to environmental issues would be well advised to consider the atmospheric hazards for aviation approach, where plume effects impact on vertically compressed clearance for final approach areas, such as the SFO/ OAK/ Hayward vertical compression of final approach airspace. This is an aviation safety issue, in addition to whatever other environmental issues may accrue. Sudden plume effects, such as vapor generated clouding or fogging over the "Russell City" EC stack area could induce sudden IFR conditions at an higher elevation than the "Eastshore" EC conditions suggested, and further into the vertical compression of final approach airspace (SFO/ OAK/ Hayward). A part of my personal interest would be to insure that the BAAQMD shares, with the C.E.C. and the City of Hayward, in any potential of future liability for this as an aviation safety issue.

Much of what was objectionable, for aviation concerns about the "Eastshore Energy Center" proposal is also seriously objectionable about the "Russell City Energy Center". Whether the City of Hayward chooses to ignore or deny this; whether the City of Hayward chooses to obfuscate the aviation testimony (with C.E.C. complicity, as with the CEC's concerted obstruction of CALTRANS Aeronautics testimony, refer to Gary Cathey); or whether the City of Hayward chose to block/ prevent/ avoid testimony from its own Airport Manager (Ross DuBarry) does not alter the merits of aviation testimony in this matter. Having observed the self- destructive unraveling of competence, commitment, and veracity, as an acutely self-indulgent exercise in California over recent decades, leads me to wonder what will remain after the many partisan exercises in pursuit of revenue and self- aggrandizement? In having become quite contemptuous of so many public officials, both elected and appointed, who seem to have taken the cue from "free enterprise" to seek the low bar along with the low hanging fruit, my parting question would be in what has become of competence, commitment, and veracity (**responsibility**)?

  
JV McCarthy  
USAR Retired

Rec'd 9/16/09

When the "Russell City" Energy Center (RCEC) is built, an additional main runway at Oakland (29L ?) would mean that Hayward air space is even further crowded under the final approach for Oakland. A 29L approach would likely come in directly over RCEC, which would be even closer to 29L than the proposed "Eastshore" Energy Center (EEC) would be to the present Oakland 29. While further interference with SW (southwest) approaches at Hayward would be the inevitable result, the smaller aircraft including rotorcraft would be at increasing risk, as the SW approach is the alternative to competing with "executive" aircraft (bizjets ?) for air space on the east side. Rotorcraft, in particular, need SW air space to stay away from the faster moving aircraft and to approach the rotorcraft area west of 28L at Hayward.

As rotorcraft would seem to be an increasing presence in the foreseeable future, the SW approach area would seem to be of increasing importance, not less. Rotorcraft are currently in a state of increasing diversification of technology and use. By way of example, the Bell- Augusta 609 tiltrotor will soon change expectations in speed and approach patterns that are within the performance range of rotorcraft, while also making flight controls and operation more critical. Another example of increased rotorcraft diversity and presence would be the appearance of Boeing- Vertol tandem rotors in commercial use. When the U.S. Marine Corps unloads over 200 of MH- 46 rotorcraft, these rotorcraft will increase the presence of larger rotorcraft in civil air space.

(Having attempted an explanation of factual differences, that are critical flight control differences, between rotorcraft technology and fixed wing aircraft, a repetition of this is as follows. Where rotorcraft have their direction of lift and thrust (equivalence) aligned in the same direction, fixed wing aircraft have their direction of lift and thrust separated by a perpendicular angle. As rotorcraft have their flight control surfaces separated from cable controls by a rotating hub and a full cycle delay, fixed wing aircraft have flight control surfaces directly/positively connected to cable controls with a more immediate and direct response. All of this means that lift and thrust are more substantially/ directly affected by vertical velocities/ drags on rotorcraft and the rotorcraft pilots need to exercise greater anticipation in the use of flight surface controls, as a full rotor cycle is required for flight control changes to take full effect. While rotorcraft may fly as low as 200' (see page# 156, Docket# 06- AFC- 6, Volume II, 12/18/07) this may be too low for emergency auto- rotation recovery in the event of a sudden power loss, or too low for recovery in the event of sudden flight control problems. A low plume cloud effect (see page# 161, Docket# 06- AFC- 6, Volume II, 12/18/07) after sunset could suddenly put rotorcraft approach into IFR conditions where avoiding faster moving aircraft may become critical.

To consider the differences between Hayward and the Berrick site, where elevation, humidity, and temperature are considered, while a thermal plume may disperse more rapidly at the higher elevation (Berrick), such thermal plumes may be less likely to form clouds from condensation. The wind speed mentioned at the Berrick site test was likely to have bent a plume effect (see page# 241, Docket# 06- AFC- 6, Volume II, 12/18/07) toward horizontal before resuming vertical velocity, thus extending the actual travel at a given elevation, prior to temperature measurement for test observation. It seemed that where the rotorcraft was actually located at 300' over the Berrick site was inadequately clarified, as the altitude of the rotorcraft over any plume was also not clear.)

J.V. McCarthy  
(USAR Retired)

In the matter involving a proposed "Russell City" Energy Center (RCEC, 01- AFC- 7C), what response was there, specifically, from either/ or of the Hayward City Council Airport Committee or the Hayward Airport Manager, specifically. Between time of original application and time of city approval for RCEC, 01- AFC- 7-, the response from Hayward City Council Airport Committee or Hayward Airport Manager is in question here.

### **MISSTEPS ON THE PART OF THE CITY OF HAYWARD WITH REGARD TO THE AIRPORT:**

1. Cited elsewhere
2. Inadequately qualified City Council Airport Committee as where aviation background is minimal/ vacant.  
(Hayward has recently dropped it's aviation industry periodicals from Hayward public library materials.)
3. Cited elsewhere
4. Cited elsewhere
5. Cited elsewhere
6. Cited elsewhere
7. Cited elsewhere
8. Cited elsewhere
9. Cited elsewhere
9. Inadequate coordination with other local airports, such as in the "Russell City" Energy Center decision, is the City of Hayward's evident lack of concern about Oakland runway approach and SFO layered air space.
10. Cited elsewhere

Among the most intensely crowded airport approach intersections in the bay area, Hayward clearly stands out. With Hayward 28L under SFO 28 (L/R) adjoined by Oakland 29 under SFO 28 and holding patterns which at some one or more points are likely to stack all three loops in vertical succession, every remaining square foot of horizontal airspace becomes more important. With less than 500' of vertical separation between each of these loops, aircraft moving at between 150 and 250 knots have little space for decisions, which may include IFR, fuel shortage, flameout, fire, storm fronts, other aircraft, etc., etc.

"Russell City" Energy Center documentation (for 01- AFC- 7-) has noted that the principal air traffic area for rotorcraft, on the west side of the Hayward airport, is in a cone shape which comes to point just short of RCEC.

Having attempted an explanation of factual differences, that are critical flight control differences, between rotorcraft technology and fixed wing aircraft, a repetition of this is as follows. Where rotorcraft have their direction of lift and thrust (equivalence) aligned in the same direction, fixed wing aircraft have their direction of lift and thrust separated by a perpendicular angle. As rotorcraft have their flight control surfaces separated from cable controls by a rotating hub and a full cycle delay, fixed wing aircraft have flight control surfaces directly/positively connected to cable controls with a more immediate and direct response. All of this means that lift and thrust are more substantially/ directly affected by vertical velocities/ drags on rotorcraft and the rotorcraft pilots need to exercise greater anticipation in the use of flight surface controls, as a full rotor cycle is required for flight control changes to take full effect. While rotorcraft may fly as low as 200' (see page# 156, Docket# 06- AFC- 6, Volume II, 12/18/07) this may be too low for emergency auto- rotation recovery in the event of a sudden power loss, or too low for recovery in the event of sudden flight control problems. A low plume cloud effect (see page# 161, Docket# 06- AFC- 6, Volume II, 12/18/07) after sunset could suddenly put rotorcraft approach into IFR conditions where avoiding faster moving aircraft may become critical.

J.V. McCarthy  
(USAR Retired)

In the matter of the "Eastshore" Energy Center, as well as the "Russell City" Energy Center, you may note:

Having repeatedly cited the fact that for anyone with more than a passing fancy about major emergencies, the Hayward air terminal is an obvious staging and access site for the middle of Alameda County. As a next "big one" on the Hayward Fault is only one example, various events could cancel the immediate usefulness of major ground access routes, such as highways and rail access into and out of the area. An hazardous materials event by rail or highway, not to mention storm fronts or fire storms, could quickly demonstrate the reality.

If a further escalation, in the crowding of Hayward air space, is going to be the result of disregard and neglect on the part of state agency (CEC), due process (to recognize liabilities) will be in order. If agency, as the California Energy Commission (CEC), for the state of California is to disregard the interest of state and local government, there is appropriate consequence. Where a state agency (CEC) decision may be found as a contributing factor in ultimately closing the Hayward air terminal, such state agency could be found in joint civil liability, along with the City of Hayward and Alameda County, for federal funds (due and payable immediately) as were invested in the airport. A further clarification could entail an immediate repossession of the Hayward airport by the federal government for gross breach of agreement, by the original "quitclaim" deed (A.1., other than release provisions). Such a breach of the agreement would only be the conclusion of a longstanding litany of abuses by the City of Hayward, as well as nonfeasance by the Alameda County Airport Land Use Commission in the county's denial of case law.

Where a repossession were to ensue, a stated objective by the federal government would likely be to restore airport operations. If such airport operations could not be restored, it seems likely that state agency (CEC), city, and county could then be held liable for the total cost of the airport to include title value plus all of the additional investment (due and payable immediately). If such concepts of liability are a challenge beyond the comprehension of public "officials", one may wonder at the quality of such public "officials". To cite some of the various missteps on the part of the City of Hayward with regard to the airport, consider the following:

1. Eminent domain controversy, leaving a claim against Hayward in absence of any clear title to the land.
2. Inadequately qualified City Council Airport Committee as where aviation background is minimal/ vacant.
3. Eliminating the crosswind runway was done allegedly for extension of West A Street, which was not done. How would this not constitute elimination of airport operations space to facilitate rezoning of airport land?
4. Hayward assumed exclusive authority, excluding the Alameda County Airport Land Use Commission.
5. A non aviation qualified "Airport Director" was appointed in lieu of a proper airport manager, 1981-1995.
6. City of Hayward insists on its disregard of state code and case law regarding Airport Land Use Commission.
7. The elimination of taxiway access was symbolic as an inevitable reflection of disregard in access rezoning. Was required use of original airport land for development and/ or revenue sustained to support the airport?
8. City of Hayward repeatedly disregards airport related land use in zoning, and as admitted previous mistake.
9. Inadequate coordination with other local airports, such as in the "Russell City" Energy Center decision, is the City of Hayward's evident lack of concern about Oakland runway approach and SFO layered air space.
10. The continued crowding of air space was initially a non issue for the Hayward Planning Commission where disregard of Hayward Planning Department staff about "Eastshore" EC includes lack of concern for aviation.

# MISSTEPS ON THE PART OF THE CITY OF HAYWARD WITH REGARD TO THE AIRPORT:

AS DETAILED FOR POSSIBLE LITIGATION (\*PENDING FURTHER DETAIL AND CASE HISTORY).

1. Eminent domain controversy, leaving a claim against Hayward in absence of any clear title to the land\*.
2. Inadequately qualified City Council Airport Committee as where aviation background is minimal/ vacant. (Hayward has recently dropped it's aviation industry periodicals from Hayward public library materials.)
3. Eliminating the crosswind runway was done allegedly for extension of West A Street, which was not done. How would this not constitute elimination of airport operations space to facilitate rezoning of airport land?
4. Hayward assumed exclusive authority, excluding the Alameda County Airport Land Use Commission\*.
5. A non aviation qualified "Airport Director" was appointed in lieu of a proper airport manager, 1981-1995. (It is not yet clear whether this "Airport Director" ever acquired her expected pilots license, as appropriate.)
6. City of Hayward insists on its disregard of state code and case law regarding Airport Land Use Commission. (Was there a collusion with the county, in the county counsel denial of the published existence of case law?)
7. The elimination of taxiway access was symbolic as an inevitable reflection of disregard in access rezoning. Was required use of original airport land for development and/ or revenue sustained to support the airport?
8. City of Hayward repeatedly disregards airport related land use in zoning, as an admitted previous mistake before the rezoning for "Home Depot" as an example of unrelated land use on immediate airport access.
9. Inadequate coordination with other local airports, such as in the "Russell City" Energy Center decision, is the City of Hayward's evident lack of concern about Oakland runway approach and SFO layered air space.
10. The continued crowding of air space was initially a non issue for the Hayward Planning Commission where disregard of Hayward Planning Department staff about "Eastshore" EC includes lack of concern for aviation.

What, if anything, has the City of Hayward done to inform residential neighborhoods at risk from air traffic? If the specific risks of layered airspace, over Hayward, have ever been detailed graphically or otherwise, by Hayward, this has not been well disclosed. The risk level over Hayward neighborhoods comes most obviously into focus in areas immediately south of "Southland" mall (see pink highlighter trapezoid of second graphic). In that area SFO 28 L/R east loop to final approach directly overlies Oakland 29 east loop to final approach, which there directly overlies Hayward final approach. Hayward takeoff, west loop, directly underlies Oakland final approach, with the first ascending toward where the other descends (see yellow highlighter triangles of second graphic). Some risks implied by airspace crowding have been suggested (13 March 2008). To consider mid-air collision possibilities, in either area, from contingency which may include IFR, fuel shortage, flameout, fire, storm fronts, or other aircraft presents risk from airspace crowding, in addition to the contingency factors.

J.V. McCarthy  
8 June 2008

**P.S. The same basic conditions, which apply to "Eastshore" EC (Docket 06- AFC- 6), also apply to RCEC (Docket 01- AFC- 7C) where aviation is concerned. The air space graphics were provided in 06- AFC- 6.**

# RussellCityEC/Permit Inbox

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BAAQMED  
Commissioners,

6  
February, 2009

As noted at the hearing in Hayward, 01/22/09 per public comment, much of the aviation critical data has already been presented to the California Energy Commission. What the CEC has decided to do with this is another matter. Your potential for liability awaits you:

1. The California Energy Commission summarily dismissed the CALTRANS Aeronautics Chief (Gary Cathey), without even proper address for which Mr. Cathey was present twice to provide.
2. Where particulate matter from "Russell City" EC would raise the same kind of plume and vapor cloud issues, for aircraft, as those of "Eastshore" EC, they are even greater for "Russell City" EC.
3. Rotorcraft SW access, critical, comes to apex of triangle approach zone at "Russell City" EC.

21 September  
2008.doc

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A 2 page review will be forwarded as extended public comment.

J.V.McCarthy

(USAR Retired)

P.S. In attachment to this email transmission, #3 of same, copy is provided of the 2 page review, noting possible consequences.

**P.S. In comment relating to the "Russell City" energy center, be advised that there are unresolved issues concerning this matter. Prior to any construction, issues are:**

- 1. Aviation findings included legitimate conditions expressed by aviation witness, concerning airspace restriction. These concerns do not appear to have been adequately addressed by California Energy Commission staff in their findings.**
- 2. Currency of need and technology issues should be considered in the financing.**

21 September 2008

California Energy Commission Chair,

If it is currently the desire of the California Energy Commission to become a liable party to a claim of liability against the City of Hayward for the FAA grant to construct rotorcraft accommodations at the Hayward airport, this could be arranged:

1. Where the testimony of Gary Cathey (CALTRANS) was inappropriately and arbitrarily dismissed, prior to the fact, by the former "Commissioner" Geesman concerning aviation issues with the "Russell City Energy Center", this was repeated at the July (2008) "Business Meeting" concerning the same.
2. Where CEC Staff concerns about aviation issues with the "Russell City" site have been largely set aside by the former "Commissioner" Geesman, this will be a continuing issue for the CEC to respond to the appropriate federal authorities, not to mention the disregard of former "Commissioner" Geesman, of CALTRANS testimony.

J.V.McCarthy  
(USAR Retired)

## Commissioner- J.Pfannenstiel

to DOCKET

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Reply

Given that all comment or testimony concerning aviation issues, including that from CALTRANS (Gary Cathey) was excluded from consideration at the July 2008 CEC "Business Meeting" for the "Russell City Energy Center" agenda item, this will be a recurring issue. If the CEC has decided that no further consideration is in order, there is a disaster management issue in the environment.

J.V.McCarthy  
(USAR Retired)



cholmes@energy.state.ca.us  
jbyron@energy.state.ca.us  
carol\_ford@sbcglobal.net

EastshoreEC&aviation

In having provided a graphic and verbal description (January 2008) of factual differences between rotorcraft and fixed wing aircraft, these differences were shown to be critical to the different performance characteristics. The graphic display materials and text excerpts were forwarded with staff, following the hearing (January 2008). It is now urgent that you are fully aware of consequences which could ensue, as a result of decisions concerning "Eastshore"EC. A 2 page review will be forwarded as extended public comment.

J.V.McCarthy  
(USAR Retired)

P.S. In attachment to this email transmission, #2 of same, copy is provided of the 2 page review, noting possible consequences.

from Public Adviser's Office <[Pao@energy.state.ca.us](mailto:Pao@energy.state.ca.us)>

to John Mccarthy <[jmccarthy3@horizon.csueastbay.edu](mailto:jmccarthy3@horizon.csueastbay.edu)>

date Wed, Mar 19, 2008 at 10:35 AM

subject Re: Eastshore EC & aviation

hide details Mar 19 Reply

Hi Mr. McCarthy,

Thank you for your e-mail. I have forwarded your e-mail and attachment to the Energy Commission's Dockets Unit for docketing. A copy of your e-mail and attachment will be sent to the Eastshore Energy Center's Proof of Service list, which includes the Energy Commission's five Commissioners.

Please e-mail or call the Public Adviser's Office at (916) 654-4489 or (800) 822-6228, if you have further questions.

Thank you,

Laura Murphy

Public Adviser's Office

>>> John Mccarthy <[jmccarthy3@horizon.csueastbay.edu](mailto:jmccarthy3@horizon.csueastbay.edu)> 3/18/2008 7:29 PM >>>

- Show quoted text -

In having provided a graphic and verbal description (January 2008) of factual differences between rotorcraft and fixed wing aircraft, these differences were shown to be critical to the different performance characteristics. The graphic display materials and text excerpts were forwarded with staff, following the hearing (January 2008). It is now urgent that you are fully aware of consequences which could ensue, as a result of decisions concerning "Eastshore" EC.

If Mr. Blumenthal or Mr. Graves were presenting their professional qualifications in any way that was specific to rotorcraft, it certainly was not clear regarding the "Eastshore" EC statements or presentation as regarding rotorcraft (p. 51- 57, volume II, Docket 06- AFC- 6, 12/ 18/ 07). Their scarce statements regarding rotorcraft could only be considered as careless, or willfully misleading, in disregard of the basic factual differences in rotorcraft technology and performance characteristics (see email, per docket record, J.V. McCarthy, 03/ 13/ 08). The "Berrick" site flight tests did nothing to clarify basic differences that characterize rotorcraft, as apart from fixed wing aircraft, (p. 61- 79, volume II, Docket 06- AFC- 6, 12/ 18/ 07). Differences in climate and elevation, as were cited, are factual differences contributing to factually different circumstances (p. 160- 164, volume II, Docket 06- AFC- 6, 12/ 18/ 07), factually mischaracterized by statements of "Eastshore" EC. Differences in air traffic density and timing, as cited, are factual differences contributing to factually different circumstances (p. 61- 79/ 84- 88/ 148- 160/ 164- 170, volume II, Docket 06- AFC- 6, 12/ 18/ 07). They were factually disregarded by the statements in testimony representing "Eastshore" EC.

If rotorcraft at Hayward face a developing confinement of airspace, this could also mean a confinement in the usefulness of rotorcraft at Hayward for any major disaster event. Where rotorcraft may face a confinement of airspace is where 3 main approaches (east, south, and southwest) become 2 (east and south) and then become 1 (east). When rotorcraft may face such confinement of airspace would be in competing for airspace from the southwest with Oakland 29 under SFO 28, from the southwest by "Russell City" EC and "Eastshore" EC, and from the south with Oakland 29 under SFO 28 (L/ R). It has already been clearly explained, by the FAA and others, that there is no acceptable mitigation for a combining of "Russell City" EC with "Eastshore" EC (p. 175- 179, volume II, Docket 06- AFC- 6, 12/ 18/ 07).

Among the most intensely crowded airport approach intersections in the bay area, Hayward clearly stands out. With Hayward 28L under SFO 28 (L/R) adjoined by Oakland 29 under SFO 28 and holding patterns which at some one or more points are likely to stack all three loops in vertical succession, every remaining square foot of horizontal airspace becomes more important. With less than 500' of vertical separation between each of these loops, aircraft moving at between 150 and 250 knots have little space for decisions, which may include IFR, fuel shortage, flameout, fire, storm fronts, other aircraft, etc., etc.

Critical airspace concerns described by FAA response, as well as other authoritative public aviation testimony, are in no way "speculative" (p. 175- 179/ 148- 160/ 164-170, volume II, Docket 06- AFC- 6, 12/ 18/ 07). The fact that approach and holding patterns for SFO 28 (L/ R), OAK 29, and Hayward 28L are directly overlaid comes with scarcity of airspace for time, distance, and adjustments. The fact that closing in horizontal airspace further restricts maneuver airspace is quite obviously not "speculative", without mitigation. The fact that this further complicates any maneuver issues for smaller aircraft and rotorcraft is not merely "speculative". FAA representation stated that there was not acceptable mitigation for the thermal plumes being considered (p. 175- 179, volume II, Docket 06- AFC- 6, 12/ 18/ 07). To restate this as there not requiring mitigation would appear as knowingly, willfully, and culpably misleading (see p. 281- 283, volume II, Docket 06- AFC- 6, 12/ 18/ 07). Perhaps, there will be cause for prosecution of willfully false statements made misstating the public record, not to mention a willful misrepresentation of sworn testimony. My preferred suggestion would be that counsel for "Eastshore" EC should pursue a pilot's license, preferably for rotorcraft so that she may experience the pleasure of an unsuccessful auto-rotation.

The Hayward air terminal is a public not private facility. As a public property, it is not merely a characteristic or feature of one or another public official or administrator. As public property is held in common at public expense, it is not legitimately squandered in the service of any individual or private interest, such as Tierra or PG & E. Neither commercial, nor individual, nor other private interest has a legitimate claim at public expense without full compensation to the public, at the required level of public investment. If this principle is to be abridged, full faith and credit of public investment, not to mention that of public officials and administrators, is at stake. As commissioners are immune from the consequences of local disasters, they are also not bearing the full consequences, responsibilities, or realities of their authority, decisions, or "leadership". Was "Metcalf" really an appropriate comparison, as an example referred to in the "Eastshore" delay letter (04/ 28/ 08) ?

J.V. McCarthy  
(USAR Retired)

8 September 2008

California Energy Commission and Staff,

Where the Federal Aviation Administration has been remiss and/ or short in pursuance of its statutory obligation during recent years, those of us who are aware and committed should step forward. Where Hayward pattern and approach is at the bottom of an east bay (SF Bay) airspace corridor stack, it has become more than evident that many of us, without the compensated positions, are needed to address the points. Where Hayward City Council has chronically and consistently neglected its own aviation interest, those of us who are aware and committed should step forward.

In having denied a motion, on the part of the "Eastshore" Energy Center, to reopen the evidentiary hearing, it is appreciated that the California Energy Commission has rendered a sufficiently comprehensive and responsible decision. To have granted Tierra Energy LLC yet another opportunity with inappropriate context and construed reporting, to indulge in knowing and willful misstatement of facts and testimony, would have further abrogated respectable process. Where CEC staff has accorded due consideration of concern for aviation and other issues bearing on the "Eastshore" EC site, the same could not be said of CEC staff concerning the "Russell City" EC. Where the City of Hayward has taken issue with the "Eastshore" EC site, the same could not be said of Hayward City Council, or its "Planning Commission", concerning aviation issues with either the "Eastshore" EC site or the "Russell city" Energy Center.

1. What specifically, if anything, was the response or input from the Hayward City Council Airport Committee, regarding the initial proposal for the "Eastshore" Energy Center or any subsequent proceeding for "Eastshore" ?
2. What specifically was done by the FAA to follow through with a study request by CALTRANS Division of Aeronautics, refer to Mr. Cathy, concerning the implications for aviation of the "Eastshore" Energy Center site ?
3. Why would CH2M Hill be considered as a credible consultant, for the applicant, given their doubtful work as well as their testimony for "Eastshore" EC, not to mention their doubtful work at the Hunters Point Shipyard ?
4. Why would not a knowing and willful misstatement of facts and testimony by counsel, for Tierra Energy LLC, not warrant a prosecution against such counsel for such knowing and willful misstatements to the CEC hearing ?

J.V. McCarthy  
(USAR Retired)

PS.

- A. Inadequately qualified City Council Airport Committee as where aviation background is minimal/ vacant. (Hayward has recently dropped it's aviation industry periodicals from Hayward public library materials.)
- B. A non aviation qualified "Airport Director" was appointed in lieu of a proper airport manager, 1981-1995. (It is not yet clear whether this "Airport Director" ever acquired her expected pilots license, as appropriate.)
- C. Inadequate coordination with other local airports, such as in the "Russell City" Energy Center decision, is the City of Hayward's evident lack of concern about Oakland runway approach and SFO layered air space
- D. The continued crowding of air space was initially a non issue for the Hayward Planning Commission where disregard of Hayward Planning Department staff about "Eastshore"EC includes lack of concern for aviation.

Dear, to whom it may concern,

Having recently read the proceeding by which the California Energy Commission introduced Hayward to a second power plant proposal, one may wonder if this is to be a new trend in the way this Commission conducts its business. The back door approval style has become more of a trend in recent years, it seems. On January 19 of 2001, the California Attorney General found it necessary to remind the Federal Energy Regulatory Commission of federal law, 16 U.S.C. § 824b (a), regarding their own approval process. Is this familiar ?

Not only does it seem that the California Energy Commission has found opportunity, they then put the City of Hayward under considerable pressure, regarding the expeditious back door approval of a second gas fired power plant. Although the city has been notified, as an afterthought (?), perhaps it is only in the event of the Commission avoiding too many unpleasant questions about the application process, when the gas fired plant is expected to be licensed. Speaking of application process, and a license to build, one may wonder why there would not be some parallel principle here between initial public hearings, as with applications in process for the California Energy Commission approval and the Federal Energy Regulatory Commission approval being considered by the state Attorney General on January 19 of 2001.

There is, of course, a legitimate rationale for an adequate public hearing process. By way of example, how many gas fired power facilities should we have located upwind of, in close proximity to, medium density housing, an elementary school, and a sizeable community college campus, not to mention other caveats ? Then there are the substantial what if (?) questions. What if questions could be, such as, what if (?) a major gas leak occurred during a full power generation period ? Who would like to experience a large scale flash fire, in the downwind area, from the off site impact of a major on site (power facility) leak event ? Oh, this is yet another Texas company ? Then does that make everything suddenly Kosher ?

When was such a power facility, suddenly, so urgent ? Is that such an undeniable priority ? Perhaps the great priority is for another Texas based company to enhance its access to California rooted dollars, at California rooted expense. What of the Demand Response Spinning Reserve Demonstration to meet power demand ?

J.V. McCarthy  
(USAR retired)

A Friday, less than 3 business days, prior to Council's decision schedule is one Hell of an opportunity for any public access to Planning Commission minutes from their nondecision on the "Eastshore" Power project.

1. Having addressed the CEC about "Eastshore" in December, this seems such an exceptional issue that my concerns are very consistent with those expressed by city staff.
2. When the Planning Department suggested that "Eastshore" would not be compliant with zoning principles, Planning was putting this mildly to say the least.
3. What presence of mind could people be having when they casually disregard, or choose not to address, the public safety and fire protection issues raised by staff?
4. Safety issues listed by the city manager, not to mention the full Agenda Report for 02/15/07, include such items of interest as hazardous materials and impacts.
5. For anyone on the Planning Commission who actually read the full Agenda Report, it seems that hazardous materials and geology are cues.
6. A simple consideration of Chemistry, from an high school science perspective, would suggest more attention from the Commissioners.

My current understanding is that the Hayward Fire Department input on the "Eastshore" Power project proposal was delayed by the proposals delayed submission. It is my desire to obtain whatever information is available from the Fire Department on the proposal, as for industrial safety and hazardous materials details in particular. My interest is cumulative and specific, for the "Eastshore" proposal as well as the "Russell City" proposal.

J.V. McCarthy  
USAR Retired