

PSD permit for Russell City Energy Center.txt

From: Laura Baker
Sent: Wednesday, September 16, 2009 3:19 PM
To: Weyman Lee
Subject: PSD permit for Russell City Energy Center

Attachments: 09-16-09 LetterBAAQMD-RCEC.doc
Dear Weyman,

Attached is a letter from the East Bay Chapter of the California Native Plant Society regarding the PSD permit for the RCEC. In essence, it corrects the public record with respect to assertions made by attorney Kevin Poloncarz regarding comments that we made to BAAQMD on February 6, 2009 regarding the PSD permit for RCEC. We request that this letter be made part of the public record.

In order not to send too large a file, I will not send the supporting documents (our letter of 02/06/09 and Mr. Poloncarz's letter of June 17, 2009) via e-mail. Instead I will snail mail these to you. Weyman, I apologize for not being able to fax these directly to you. I couldn't find your fax number on the website, and I tried to call you this afternoon but couldn't reach you.

Thank you.

Sincerely,

Laura Baker, Chair
Conservation Committee
East Bay Chapter of the California Native Plant Society

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

September 16, 2009

Dear Mr. Lee:

I am writing to you to correct the record regarding the Russell City Energy Center Updated Baseline Survey Results. Specifically, I am referring to a letter dated June 17, 2009, from Kevin Poloncarz of Bingham McCutchen LLP to Alexander Crockett in which reference is made to my comments regarding the presence of a population of *Centromadia parryi ssp. congdonii* at the original RCEC site (the KFAQ radio broadcast tower site in Hayward). My comments appeared in a letter that I submitted to you on February 6, 2009 regarding the proposed granting of a PSD permit for the project. I am attaching both my original comment letter and Mr. Poloncarz's letter. I request that this letter and attachments be made part of the public record regarding the BAAQMD's PSD permit review for the Russell City Energy Center so that proper corrections can be made to the record. I have only just been made aware of Mr. Poloncarz's assertions since I was never sent his letter which apparently became part of the public record.

On page 1 of my 02/06/09 letter, I state, “ **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 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 1B 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.**”

In Mr. Poloncarz's letter, he refers to my statements with the following response. “From this, Ms. Baker draws the mistaken conclusion that the biological survey which provided the basis for the 2007 amendment proceeding and the new project location was for the wrong site.” This statement is not true. My reference to the early survey work done at the original made no reference to the current site. Rather it was part of a general criticism of the overall quality of the scientific analysis performed in support of the RCEC project. Because the first survey work that was performed was not complete and missed the population, the updated survey for the new site came to the incorrect conclusion that

there were no populations within a two-mile radius. The assertion that there was no suitable habitat present for Congdon's tarplant at the original site remains erroneous.

While Mr. Huddleston, the consultant performing the surveys for the new site, checked the CNDDDB and did not find any reported occurrences of Congdon's tarplant within a two-mile buffer-zone around the new project site, he would have found the population had he field checked the original site (the KFAX property) which is within a few thousand feet of the new site. I found the population and submitted a vouchered specimen to the Jepson Herbarium. It has been correctly identified as Congdon's tarplant by Bruce Baldwin, one of the foremost experts on tarweeds and a botanist associated with Jepson Herbarium. Although the occurrence does not yet appear in the CNDDDB, Mr. Poloncarz and Mr. Huddleston can contact David Gowen who works at the herbarium to verify this information (Davidgowen@earthlink.net). Of course, had either Mr. Huddleston or Mr. Poloncarz contacted me when they read my letter, they could have called me to inquire further about my findings and I would have been happy to show them the population in person or to direct them to the specimen at the herbarium. Instead, two sets of errors have now been compounded with a third set of incorrect assertions and added to the public record.

The confusion on the part of Mr. Poloncarz only serves to underscore my original point: that the quality of research and analysis with respect to the underlying significant biological resources within the immediate vicinity of the project has been sub-par, and the public and permitting agencies cannot rest assured that all important and relevant facts have been checked and re-checked by the consultants to represent an accurate baseline that forms the critical basis for the appraisal of impacts.

Sincerely,

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