
8.6 LAND USE

This section provides a discussion of land use at and within the vicinity of the proposed Russell City Energy Center (RCEC) and Advanced Wastewater Treatment (AWT) plant site and its linear facilities, and assesses the potential effects of the RCEC construction and operation on land use. Section 8.6.1 discusses the regional and local land use setting, focusing on land use within one mile of the project site and 0.25 mile of the project's linear facilities. It also discusses applicable land use plans/controls that apply to the project, and presents a brief summary of future land use projections for the region. Section 8.6.2 discusses potential environmental effects as they relate to land use compatibility and development. Section 8.6.3 discusses cumulative impacts and Section 8.6.4 presents proposed mitigation measures for any impacts determined to be significant. Section 8.6.5 presents applicable laws, ordinances, regulations, and standards related to land use, and Section 8.6.6 references agency contacts. Section 8.6.7 presents permit requirements and schedules, and Section 8.6.8 contains a list of references cited.

8.6.1 Affected Environment

8.6.1.1 Regional Setting

The project is located in the City of Hayward in Alameda County, which is situated in the East Bay Subregion of the San Francisco Bay Area in California. Alameda County encompasses approximately 472,000 acres (California Department of Finance [CDOF] 1999a). Incorporated cities in Alameda County include Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, Pleasanton, San Leandro, Union City, and Newark.

Regional land use is diverse, with portions of Alameda County including major urban centers. For example, the City of Oakland has a population of approximately 399,900 California Department of Finance 2001 (CDOF). San Leandro has a population of 76,700, Fremont has a population of 203,600, and the unincorporated areas of Alameda County have a population of 134,800. Hayward had a population of 129,600 in 2000, which is increasing slightly every year (CDOF 1999b).

In 1995, approximately 26 percent of Alameda County's land area was developed urban land (e.g., residential, commercial, and industrial), compared to 14.7 percent for the Bay Area as a whole (Association of Bay Area Governments [ABAG] 1997). Other land uses draw upon the area's close proximity to the San Francisco Bay, including coastal ports and harbors (e.g., Port of Oakland), military uses, and salt production. The strong military presence in the East Bay region has been reduced through implementation of the Base Realignment and Closure program on most of the military installations in the Bay Area, including the Mare Island Naval Shipyard; Oakland Army Base; Naval Air Station, Alameda; Oak Knoll Naval Hospital, Oakland; and the Naval Fleet Industrial Supply Center, Oakland. In the southern reaches of the county, a large salt production industry has developed. Large, flat coastal areas are diked to allow seawater to enter and eventually evaporate, leaving salt. Approximately 18 percent of the greater Bay Area is devoted to agricultural production (ABAG 1997). In 1997, the total value of agricultural production in Alameda County was \$47.4 million, ranking 44th in the State (California Department of Food and Agriculture 1999). The top five crops, by value, were (wine) grapes (\$10.39 million), (cut) flowers (\$9.32 million), trees and shrubs (\$8.29 million), bedding plants (\$6.46 million), and cattle/calves (\$5.66 million).

A significant portion of other undeveloped land in the region is designated protected open space; this is particularly true in the East Bay. The U.S. Fish and Wildlife Service (USFWS) administers the 21,500-acre Don Edwards San Francisco Bay National Wildlife Refuge, located along the edge of the Bay to the

south of Hayward. The Hayward Area Recreation District (HARD) manages the 1,800-acre Hayward Regional Shoreline wetland open space area, located one-mile northwest of the project site. Numerous community parks also contribute to the open space landscape.

8.6.1.2 Local Setting

RCEC Plant Site

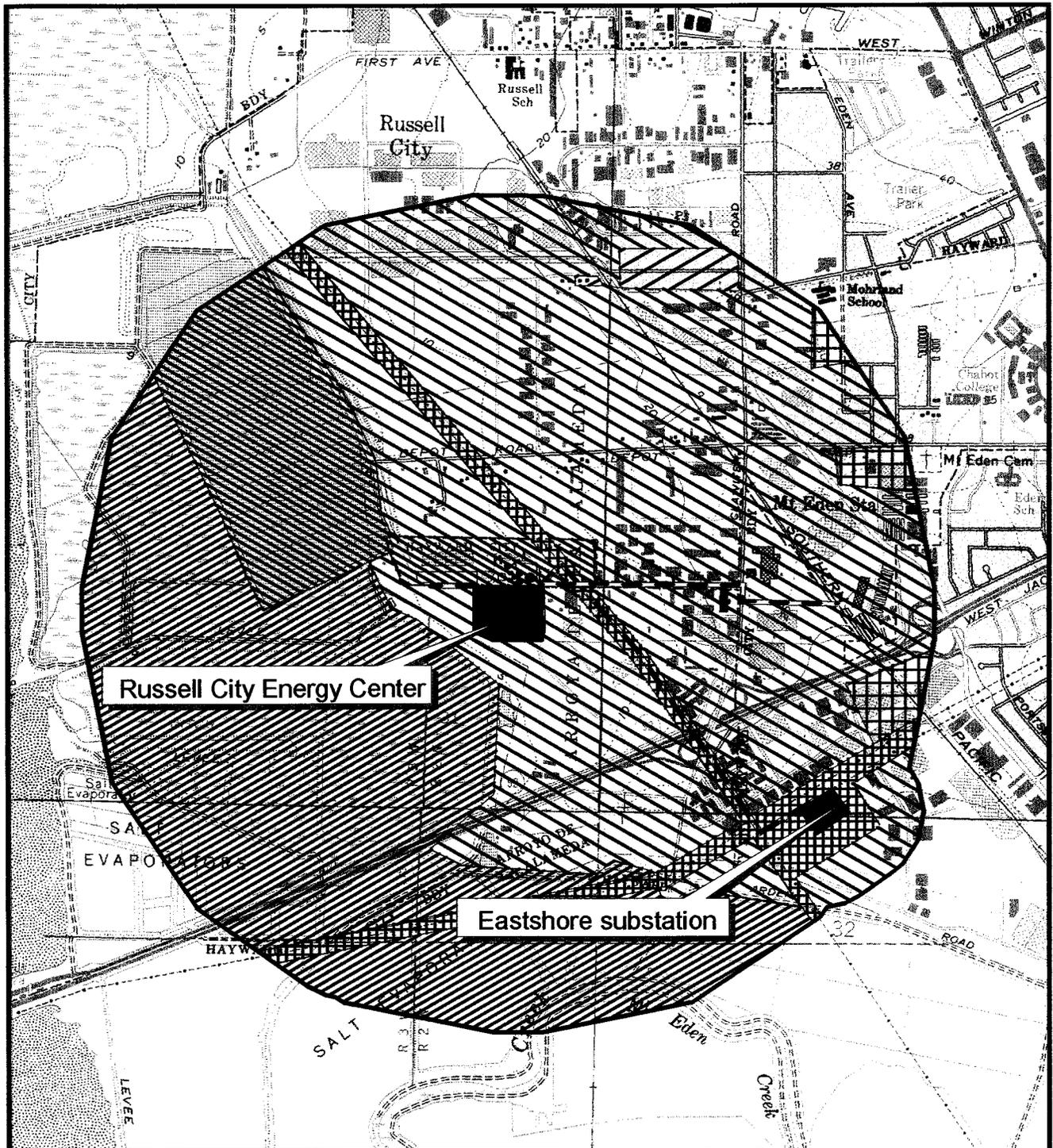
The power plant site is located in the City of Hayward Industrial Corridor, directly across Enterprise Avenue from the City's Water Pollution Control Facility (WPCF) (wastewater treatment plant), among heavy and light industrial and office uses. The RCEC is consistent with existing uses of neighboring properties, such as the Water Pollution Control Facility (WPCF), the Rohm and Haas paint polymers plant (located approximately 2,000 feet southeast), and a multi-company trucking warehouse facility (located immediately west). Figure 8.6-1 shows existing land uses within one mile of the project site. The Hayward Industrial Corridor extends to the north for about 1.5 miles to the Hayward Air terminal, and to the east for about the same distance. Large industrial facilities to the east include the Gillig bus manufacturing plant and Berkeley Farms dairy processing facility. A variety of smaller warehousing and industrial businesses line Enterprise Avenue, Whitesell Street, and Depot Road, the nearest streets. A pocket of unincorporated County land that contains a number of automobile salvage yards lies between Depot Road and the WPCF.

The nearest residential uses to the project consist of an apartment complex located northeast and approximately 0.82 miles from the project site, and a single-family dwelling located on Depot Road east of Clawiter Road, also about 0.82 miles away. There are several residences remaining within the Hayward and County Industrial zones on McCone Avenue and Dunn Road. These are approximately 0.8 miles or more from the project site. The amount of housing within a one-mile radius of the project is very small and, other than the McCone Avenue and Dunn Road residences, is confined to the Mt. Eden residential area east of Industrial Boulevard.

Open land lies to the south and west of the project site, between the project site and State Route 92. This area includes a stormwater retention pond that is owned by the City of Hayward. This pond is used to regulate stormwater flow into marshlands further south, including the HARD marsh and a salt marsh harvest mouse preserve that is located further south, along State Route 92. The HARD marsh is a reclamation project that involves the restoration of former salt evaporation ponds to brackish marsh using secondary treated wastewater from the Union Sanitary District (USD) Alvarado Treatment Plant. Other land uses to the south and west include recreational uses at the Hayward Shoreline Regional Park (managed by East Bay Regional Parks District) and the Shoreline Interpretive Center that is run by the HARD. The Shoreline Interpretive Center is located about 0.73 miles from the plant at the end of Breakwater Drive, adjacent to State Route 92. From that location, hiking trails extend further west to the bay and north along the bay shore.

Major surface roads within the vicinity of the proposed project include State Route 92, Clawiter Road, Enterprise Avenue, Industrial Avenue, and Depot Road. Union Pacific Railroad industrial spur tracks abuts the southern boundary of the project. Refer to Section 8.12 for further details regarding transportation facilities.

Nearby schools are located in the Mount Eden and Glen Eden areas at distances of approximately 1 mile or more from the RCEC site. More specifically, Chabot Community College is just over one mile east-northeast of the site. The Life Chiropractic West College is located east-northeast of the project site at the



Russell City Energy Center

Eastshore substation

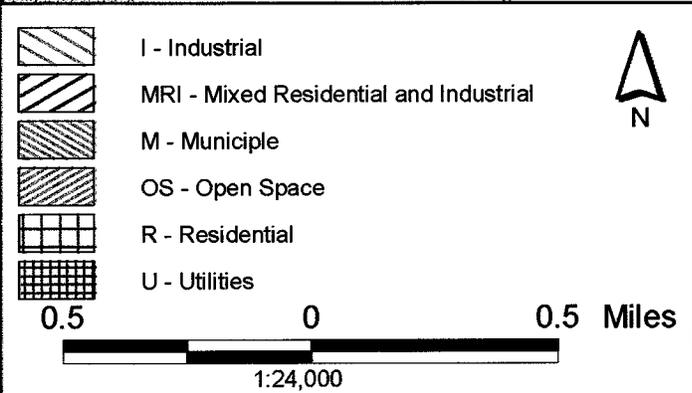
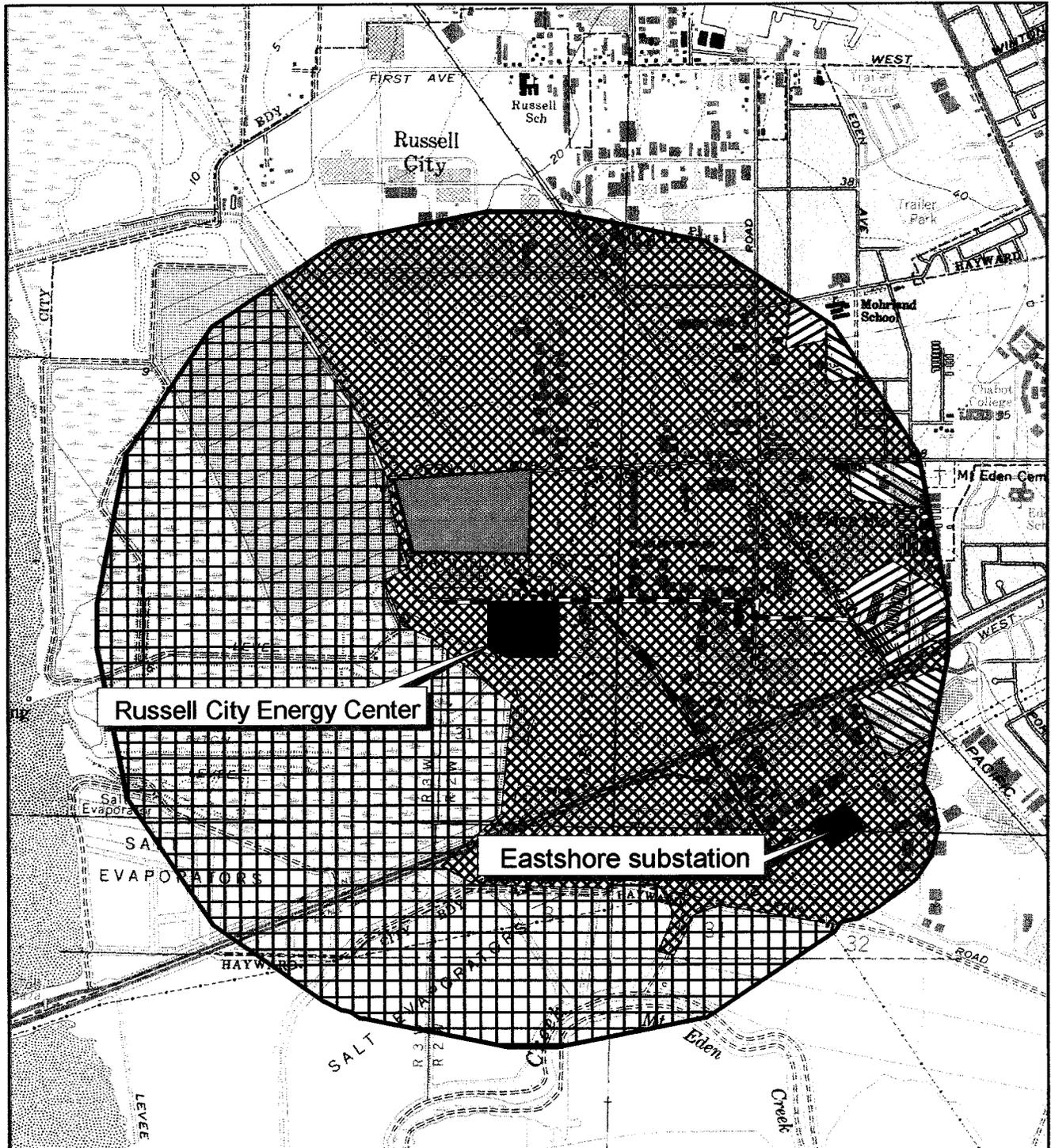


Figure 8.6-1
Land Use
RUSSELL CITY ENERGY CENTER

FOSTER WHEELER ENVIRONMENTAL CORPORATION

Russell City Energy Center AFC

May 2001



Russell City Energy Center

Eastshore substation

Legend

	Industrial		Residential
	Heavy industrial (county - M-2)		Floodplain
	Planned development		

0.5 0 0.5 Miles

Scale = 1:24,000

N

Figure 8.6-2

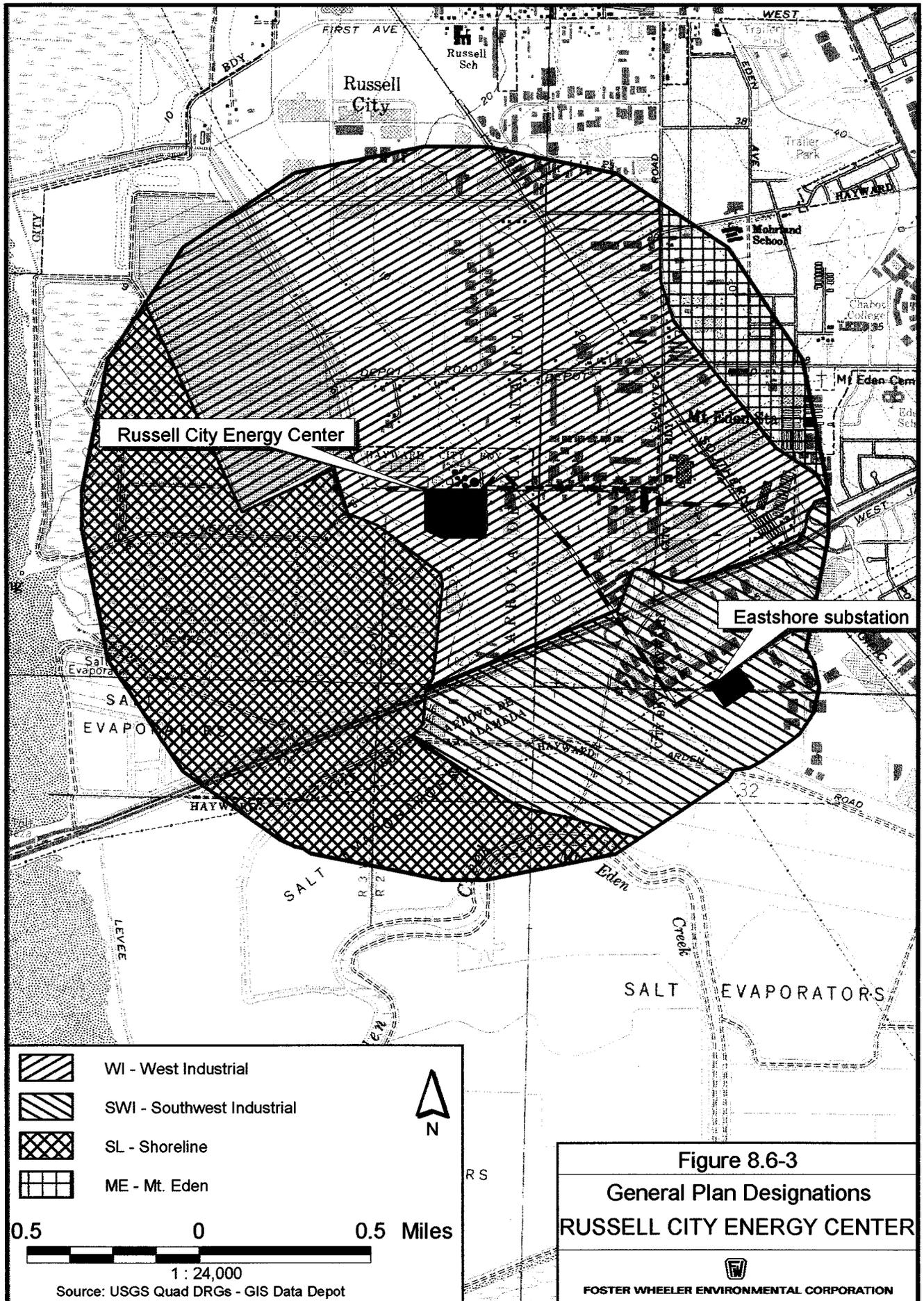
Zoning

RUSSELL CITY ENERGY CENTER

FOSTER WHEELER ENVIRONMENTAL CORPORATION

Russell City Energy Center AFC

May 2001



Russell City Energy Center

Eastshore substation

	WI - West Industrial
	SWI - Southwest Industrial
	SL - Shoreline
	ME - Mt. Eden

N

0.5 0 0.5 Miles

1 : 24,000

Source: USGS Quad DRGs - GIS Data Depot

Figure 8.6-3

General Plan Designations

RUSSELL CITY ENERGY CENTER

FOSTER WHEELER ENVIRONMENTAL CORPORATION

Russell City Energy Center AFC

May 2001

corner of Clawiter and Depot Road, a distance of 0.75 mile from the RCEC site. For a discussion of sensitive receptors within one mile of the proposed project site, refer to Section 8.9 (Public Health).

Electric Transmission Line and Eastshore Substation Expansion—There are 4 existing transmission line towers between the project site and State Route 92, and 2 towers between State Route 92 and PG&E Eastshore Substation. These towers will be replaced, at the same locations, with new tubular towers. The first tower is located at 3458 Enterprise Avenue at Bay Cities Rebar Company, while a second tower is located on the Tuscarora Corporation's property at 3440 Enterprise Avenue. A third tower is located on the property of Johnson Controls. The fourth tower is located in a Caltrans parking lot within the State Route 92 right-of-way overpass embankment. The two towers south of State Route 92 are also situated in areas that are zoned and used for industrial purposes. The electrical transmission line route covers 1.1 miles and connects with the Eastshore Substation, south of State Route 92 off Arden Road. The PG&E substation and surrounding area lies within the Hayward Industrial Corridor and is also zoned for industrial use, but this area contains more office and light industrial uses compared with the heavy industrial uses near the RCEC site (e.g., the City of Hayward's WPCF, and the Rohm and Haas paint polymers plant), north of State Route 92. Industrial developments near the PG&E substation and off Eden Landing Road were constructed more recently than those near the RCEC.

Natural Gas Pipeline—The pipeline route lies entirely in the Hayward Industrial Corridor. The proposed route will run east from the RCEC site along Enterprise Avenue, across Clawiter Road to the Berkeley Farms facility, and then continue east along the southern property line of Berkeley Farms to the east side of the Union Pacific Railroad right-of-way, where PG&E's gas distribution Line 153 is located. Land use along Enterprise Avenue consists of a large truck terminal, the City of Hayward WPCF, automotive and metal fabricating, and other light industrial uses.

Wastewater Return Pipeline—The wastewater discharge pipeline will extend across Enterprise Avenue to the City of Hayward's WPCF. Current use nearby includes the KFAX radio station transmitter, the WPCF, and the warehouse-truck terminal immediately west of the RCEC site.

AWT Plant

The local setting of the AWT plant is substantially the same as that of the RCEC plant site.

8.6.1.3 Land Use Planning and Controls

The City of Hayward General Plan provides a general and comprehensive statement of land use policies that will guide the future growth of cities and counties. The City's ordinances, in contrast, provide a specific regulatory mechanism used by the City to implement its land use policy. Zoning ordinances give jurisdictional properties a zoning designation, which corresponds to a set of "permitted" and "conditional" uses. The City's land use zones, or districts, are each subject to specific development standards and restrictions. Zoning and general plan designations for the project area are shown in Figures 8.6-2 and 8.6-3, respectively. In addition to these basic land use policies, there may be regional land use controls in a particular area that must also be considered prior to development.

General Plan Designation and Zoning

RCEC Plant Site

The project is located in the City of Hayward and hence is subject to policies stipulated in the Hayward General Plan (City of Hayward, 1998). Specifically, the Land Use Element of the General Plan defines Planning Areas and establishes the descriptions, limits, and directions for growth (Section 8.6.5).

The project site is part of the West Industrial Planning Area (WIPA) and has been designated a part of the Hayward Industrial Corridor in the General Plan. As one of several Planning Areas in Hayward, the WIPA has potential for office, warehouse, and other industrial growth.

The project site is zoned Industrial (I) (Figure 8.6-2) under the City of Hayward zoning ordinance. The purpose of this designation is to encourage the development of industrial uses in suitable areas while minimizing effects to other areas. Manufacturing, warehousing, printing, publishing, research and development, research laboratories, and wholesale business uses are permitted as primary uses in the Industrial District when not adjacent to a residentially zoned property, when not specified as an administrative or conditional use, and when the use is conducted completely within an enclosed building(s). Pertinent restrictions in the Industrial zone include a minimum lot size of 10,000 sq. ft., minimum frontage of 35 ft., and an average lot width of 70 ft. There is no maximum lot coverage limit for industrial facilities, and no limit on the height of industrial buildings.

Other predominant zoning designations within one mile of the project site are Industrial (I), Single-Family Residential (RS), and Flood Plain (FP) (City of Hayward Zoning Ordinance 1999). Also within one mile of the project site are two unincorporated areas of Alameda County that are entirely surrounded by the City of Hayward. An area along Depot Road north of the project, for example, is zoned Heavy Industrial (M-2) under the County's zoning system. This area contains several automobile salvage businesses. Areas further north along Clawiter Road and Industrial Boulevard are also under the County's zoning jurisdiction including both residential and industrial zones.

Electrical Transmission Line and Eastshore Substation Expansion—From the new RCEC switchyard, power will be transmitted through new overhead transmission lines to PG&E's existing Eastshore Substation. Lands adjacent to the transmission wires are zoned Industrial and are designated Industrial Corridor in the General Plan. The transmission line will cross State Route 92.

Natural Gas Pipeline—The natural gas pipeline will be installed within Enterprise Avenue, across Clawiter Road, and in a pipeline right-of-way within the Berkeley Farms facility. Zoning designations do not apply to city street rights-of-way. The City's General Plan designates properties adjacent to the proposed pipeline as part of the Industrial Corridor. They are zoned as Industrial (Figure 8.6-2). Zoning designations for all parcels adjacent to the pipeline corridor are also Industrial.

Wastewater Return Pipeline—The wastewater return pipeline lies within the General Plan's Industrial Corridor. The zoning designations for parcels adjacent to the wastewater discharge pipeline are Industrial.

AWT Plant

The General Plan and zoning designations for the AWT plant are the same as to those for the RCEC plant site.

Other Applicable Land Use Plans

San Francisco Bay Plan

Various regional land use controls are operative in portions of the project area. The Bay Conservation and Development Commission (BCDC), as the local coastal management agency, administers the local coastal management program including the San Francisco Bay Plan. Created in 1968, the Bay Plan is an enforceable regulatory framework to guide the future protection and use of the San Francisco Bay and its shoreline. Key features of the Bay Plan include regulation of filling and dredging in the Bay and new development within 100 feet of the shoreline, and protection of shoreline areas suitable for high priority

water-orientated uses (i.e., ports and harbors). In order to carry out the Bay Plan, a permitting system has been established for certain activities on lands within the BCDC's jurisdiction, which includes the following areas:

- The open water, marshes, and mudflats of greater San Francisco Bay, including Suisun, San Pablo, Honker, Richardson, San Rafael, San Leandro and Grizzly Bays, and the Carquinez Strait
- The first 100 feet inland from the shoreline around San Francisco Bay
- The portion of the Suisun Marsh including levees, waterways, marshes and grasslands below the 10-foot contour line
- Portions of most creeks, rivers, sloughs and other tributaries flowing into San Francisco Bay
- Salt ponds, duck hunting preserves, game refuges, and other managed wetlands that have been diked off from San Francisco Bay (BCDC 1999)

A permit from the BCDC is required if there are plans to perform any of the following activities within the BCDC jurisdictional area:

- Place solid material; build or repair docks, pile-supported or cantilevered structures; or dispose of material or moor a vessel for a long period in San Francisco Bay or in certain tributaries that flow into the Bay
- Dredge or extract material from the bottom of the Bay
- Substantially change the use of any structure or area
- Construct, remodel, or repair a structure
- Subdivide property or grade land (BCDC 1999).

According to the BCDC (Lisa Bennett, personal communication, February 13, 2001), the RCEC site does not lie within BCDC jurisdiction. The marshlands (Hayward Area Recreation District [HARD] marsh) to the south of the RCEC site are not within the Bay shoreline zone, because they are not tidally influenced. These are instead freshwater marshlands fed by runoff, treated wastewater from the Union Sanitary District, and periodic infusions of Bay water intentionally released into the area to create a brackish marsh. The BCDC jurisdiction under the McAteer-Petris Act and the San Francisco Bay Plan extends 100 feet from the actual Bay shoreline, about one mile west of the RCEC site.

Hayward Area Shoreline Plan

The Hayward Area Shoreline Plan was developed in 1974 and updated in 1993 by the Hayward Area Shoreline Planning Agency (HASPA) (HASPA 1993). HASPA is a joint cooperative planning agency with representatives from the City of Hayward, East Bay Regional Parks District, Hayward Area Recreation District, Hayward Unified School District, and San Lorenzo Unified School District. HASPA's Planning Area consists of all land in the City of Hayward west of the Union Pacific Railroad tracks to the bayshore. HASPA's purpose is long-range planning of the shoreline area and the enhancement and environmental restoration of wetlands in public ownership near the shoreline. One of the key purposes of HASPA is to coordinate the management and development of land held in public ownership within the Planning Area. HASPA is an advisory, rather than a jurisdictional or regulatory body.

HASPA's Planning Area includes about one-third of the City of Hayward Industrial Corridor. Much of this land, particularly in the western and southern areas, however, consists of marshland, landfill, and salt evaporation ponds. Open land north of State Route 92, about one-quarter of the HASPA Planning Area, is mostly in public ownership (City of Hayward, East Bay Regional Parks, State of California). Open land south of State Route 92 within the Planning Area is mostly privately held, and much of this is owned by the Cargill Corporation and operated as salt evaporation ponds.

HASPA is coordinating open space development in the HASPA Planning Area through implementation of the Hayward Area Shoreline Plan. As of 1998, HASPA had acquired 1,800 acres of shoreline property, sponsored marsh restoration (HARD Marsh, Triangle Marsh), and developed 8 miles of shoreline trails. The Shoreline Interpretive Center is a key educational outreach facility for HASPA. The key program objectives of HASPA are:

- Protect environmental resources such as wetlands and habitat for endangered and threatened species
- Preserve historical resources, such as landings and salt production sites
- Promote education and research
- Provide recreational opportunities, particularly through the shoreline trail system
- Encourage industrial development and traffic circulation improvements and promote industrial in-fill development in areas designated for industrial and public utilities
- Support land management efforts (mosquito abatement, shoreline erosion control, alien species management, etc.)

8.6.1.4 Future Land Use Trends

A considerable increase in East Bay area growth is expected over the next decade. Alameda County's population is expected to increase by approximately 22 percent from 2000-2020 (ABAG Projections 2000) with a population of 1,654,485 by the year 2010. Increases in population will undoubtedly spur further residential development in Hayward and elsewhere in the county. This growth is expected to continue well into the future. An overflow of high technology activities from Silicon Valley into the Hayward area has caused significant industrial expansion and this trend is expected to continue into the future. Hayward has become an attractive location for high technology manufacturing and research and development facilities because of appropriately zoned land and accessibility to affordable housing.

One of the effects of the Silicon Valley spillover has been the increased use of the Hayward Industrial Corridor for business and office-related uses, leading to a higher density of employees than is usual for a light and heavy industrial area and resulting in higher than planned traffic congestion, shortages of parking, and the conversion of warehousing space to office space within the Industrial Corridor. The City of Hayward has addressed these issues in a background paper developed as part of the General Plan Update that will be completed during 2001 (City of Hayward 2001a). Recommendations have included: 1) greater segregation of uses within the Industrial Corridor (for example, more separation of manufacturing, warehousing, and business park uses or rezoning the district for greater segregation of uses); 2) allowing automobile parking on the street under certain circumstances, 3) imposing a minimum lot size to prevent the excessive subdivision of parcels, and 4) placing a high priority on increased transit access within the Industrial Corridor.

As part of the General Plan update, the City has also addressed “smart growth” principles (City of Hayward 2001b). Smart growth principles are intended to counteract what contemporary planners see as problems associated with urban sprawl. Higher density housing that is served by public transit, mixed development of housing and commercial uses, pedestrian-friendly neighborhoods, and open space preservation and development are seen as planning principles that will help to coordinate development and retain a strong sense of place, better quality housing, and higher quality of life. Examples of transit-oriented development include the new housing complex located adjacent to the Hayward City Hall and Bay Area Rapid Transit station. The City has examined smart growth principles in relation to five key “change areas” in the City, one of which is the Industrial Corridor. Future planning efforts for the Industrial Corridor may include a better mix of residential, retail commercial, and housing uses where appropriate, in portions of the Industrial Corridor that are occupied primarily by business parks and office uses.

Within the last eighteen months (11/15/99 – 5/5/01), the City of Hayward has conducted discretionary reviews and approved the following projects within 2 miles of the RCEC project site:

- Use permit for a two-story office building at 25700 Industrial Boulevard near Depot Road
- Staples and Walgreens commercial development at West Winton Avenue and Hesperian Boulevard
- Industrial development (50,000 square feet) at 24600 Industrial Boulevard, adjacent to residential area

8.6.2 Environmental Consequences

Potential impacts to land use are evaluated by comparing project characteristics with the regional and local land use environment. A summary of effects to land use and zoning designations within one mile of the power plant site and within 0.25 mile of the project’s linear routes is presented in Table 8.6-1.

Table 8.6-1. General Plan/zoning amendment matrix.

Project Features	General Plan Designation	GP Amendment?	Zoning Designation	Rezone Required?	Other Requirements
Electric transmission line	Industrial Corridor	No	Industrial	No	Encroachment permit
Natural gas pipeline	Industrial Corridor	No	Industrial	No	Encroachment permit
Water supply and wastewater return pipelines	Industrial Corridor	No	Industrial	No	Encroachment permit
AWT plant	Industrial Corridor	No	Industrial	No	Encroachment permit

8.6.2.1 Significance Criteria

Criteria used in determining whether project-related land use impacts are significant are consistent with standard industry practice and California Code of Regulations Title 14, §15065. An impact is determined to be significant if it:

- Physically divides an established community

- Conflicts with any applicable land use plans, policies, or regulations of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect
- Conflicts with any applicable habitat conservation plan or natural communities' conservation plan

8.6.2.2 Potential Effects on Land Use

This section discusses the general project effects on land use, followed by specific potential effects of each project element. As shown in Table 8.6-1, neither the project nor any of its associated facilities will require a General Plan amendment or zoning re-designation. An encroachment permit from the City of Hayward will be required for the natural gas pipeline, or utility easement.

Consistency with the General Plan and Zoning Ordinance

The proposed RCEC project is consistent with and furthers in many respects the goals and policies of the City of Hayward General Plan. Specifically, the RCEC is an industrial land use within a designated Industrial Corridor, consistent with the General Plan.

The Russell City Energy Center would further key goals and policies stated in the General Plan's Land Use, Economic Development, and Growth Management Elements, and is consistent with the goals and policies of the other elements, as noted below:

- The Housing and Neighborhood Preservation section of the General Policies Plan identifies the West Industrial area of the City as representing great potential for industrial growth in Hayward.
- The Economic Development portion of the Hayward General Policies Plan recognizes the importance of the economic health of the City. This element states that the City's fiscal health is dependent upon maintaining a dynamic economic climate and points out the importance of developing or increasing the Hayward tax base and employment opportunities in the City of Hayward. The Economic Development Element lists a number of policies based on these issues. The RCEC would promote achievement of Policy II ("create a sound local economy which attracts investment, increases the tax base, creates employment opportunities for residents, and generates public revenues"), Policy III ("facilitate the development of employment opportunities for residents"), and Policy V ("attract new businesses").
- The Circulation Element of the General Policies Plan sets forth concerns about increased traffic generation from economic development. The RCEC is consistent with the Plan's goal of improving traffic circulation in that the RCEC is a relatively low traffic generator compared to other types of industrial development.

RCEC Plant Site

The proposed project site will not have a significant impact on the surrounding area under the CEQA thresholds presented above. The project will be located in an industrial area that is separated by design from the rest of the community, including residential developments found to the east. The nearest residential area is approximately 0.82 miles from the RCEC property line. Since the project is industrial in nature and will be located in an industrial area, it is consistent with surrounding land uses and would

not physically divide any elements of the local community. The proposed architectural design of the RCEC would contribute to an enhanced appearance of the City's western gateway area. The project is sited in an area where the neighboring land uses are mostly light and heavy industrial, including the City's wastewater treatment plant, Rohm and Haas paint polymers plant, Gillig bus manufacturing facility, and Berkeley Farms dairy products processing facility.

Section 10 of the City of Hayward's General Policies Plan states that determination of conformance of a proposed use or zone with the General Plan should include consideration of the following questions:

- 1) Is the use specifically designated on the Policies Plan Map in the area where its location is proposed?

Answer: Yes, the proposed RCEC is an industrial use, to be located in the area designated Industrial Corridor.

- 2) Are conditions in the area safe from potential flooding and geologic hazards not common to the entire Hayward Planning Area?

Answer: Yes. According to the Federal Emergency Management Agency (FEMA) flood insurance rate map (Community Panel Nos. 065033-0019E and 065033-018E), the RCEC is located in Zone C (area of minimal flooding) and is not within a 100-year or 500-year floodplain.

- 3) Will community facilities and streets be available at City standards to serve the proposed property use?

Answer: Yes. City streets and City utilities serve the location. Water is available from the City of Hayward, and treated wastewater would be available from the Hayward Water Pollution Control Facility.

- 4) Is the proposal consistent with policies, principles and standards contained in the General Plan?

Answer: Yes. The Energy Center furthers important goals and policies in the General Plan, including the Economic Development and Growth Management elements. Conditions of certification specified in the California Energy Commission license for the RCEC, if granted, would ensure that environmental, noise, and conservation element policies would be attained.

- 5) Do social and economic conditions indicate that the proposed zoning or development is needed at this time?

Answer: Yes. California is currently facing a significant energy shortage. Governor Gray Davis is encouraging the development of new energy facilities. Hayward, and the San Francisco Bay Area in general, require additional local electric energy generation to avoid a decline in the reliability and quality of electric power service.

- 6) Does an evaluation of required environmental impact reports and any potential public benefit analyses indicate that the use or zone justifies any adverse impact the proposal may have on the area involved?

Answer: The CEC licensing process provides a thorough evaluation of environmental impacts and analyses of potential public benefit. The CEC licensing process, under the Warren-Alquist Act, is equivalent to CEQA review at the level of an Environmental Impact Report.

The RCEC is consistent with the City of Hayward Zoning Ordinance as a planned industrial use located in the Industrial Corridor, which is an Industrial District. As a manufacturing use, or a use very similar to manufacturing, the RCEC would be considered a permitted use, not requiring a General Plan Amendment, rezone, or variance. City of Hayward Department of Community and Economic Development Staff have prepared a Staff Report offering their opinion that the RCEC should be considered a permitted use similar to manufacturing (Appendix 8.6-A).

Land uses south and west of the project consist mainly of natural resource conservation. There is a vacant lot owned by the Waste Management Corporation immediately south of the RCEC site. Further south lies City property used as a stormwater retention basin. Still further south, across the flood control channel, is a natural brackish marshland owned by the City of Hayward, which connects with the salt marsh harvest mouse preserve along State Route 92. Further west is the HARD marsh, jointly managed by the East Bay Regional Parks District and Hayward Area Recreation District. These areas lie outside of the Industrial zone in the Floodplain zone. The RCEC will not significantly conflict with these land uses. Noise levels from the energy center will be low such that wildlife can easily adapt (see Section 8.7, Noise). There are no significant levels of vibration from a facility such as the RCEC. Though the project could provide perching sites for predatory raptors, this could be easily mitigated. Recreational and educational use of the shoreline area will take place at a sufficient distance from the RCEC such that there will be no significant visual or noise impacts on recreational users in this zone (see Section 8.13, Visual Resources). Other potential effects on wildlife and, in general, the use of the neighboring area as a natural resources conservation area, would not be significant and would not conflict with these uses, with appropriate mitigation measures (see also Section 8.2, Biological Resources).

Electrical Transmission Line and Eastshore Substation Expansion—Construction of the new transmission towers will be performed segment by segment, so as to disrupt traffic as little as possible. Most of the tower replacement sites are located in parking lots or industrial lots of existing businesses. The electric transmission line will not conflict with local zoning regulations or with the goals of the General Plan for the City of Hayward.

Natural Gas Pipeline—The proposed natural gas pipeline will be placed in Enterprise Avenue, across Clawiter Road, and in a pipeline corridor near the south boundary of the Berkeley Farms property. Since the pipeline will be buried, it will not directly or permanently affect surrounding land uses. Temporary, indirect impacts to nearby businesses will occur due to standard construction practices that may slow and/or re-route traffic. Pipeline construction will take two to three months or less. Affected areas will only experience short-term impacts since the pipeline will be constructed on a segment-by-segment basis. Once the pipeline is completed, there will be no impacts to local transportation patterns.

The City of Hayward's General Plan does not specifically address regulation of underground utilities. The City's Industrial Corridor Plan governs land adjacent to the proposed pipeline route; pipeline construction and operation will not conflict with the goals and policies of this particular plan. Since local zoning regulations do not apply to street rights-of-way, the proposed natural gas pipeline will not conflict with local zoning regulations. The only permit required for construction of the gas pipeline will be an encroachment permit issued by the City of Hayward.

Wastewater Return Pipeline—The wastewater return line will cross under Enterprise Avenue to the City of Hayward Water Pollution Control Facility. There will be minimal impacts to local transportation patterns due to construction of the new pipeline. Since local zoning regulations do not apply to street rights-of-way, the proposed wastewater pipeline will not conflict with local zoning regulations.

AWT Plant

Consistency of the AWT plant with the General Plan and zoning ordinances will be substantially similar to that of the RCEC plant site.

8.6.3 Cumulative Impacts

Since the project will not cause significant land use impacts, it will not contribute to significant cumulative impacts on land use.

8.6.4 Proposed Mitigation Measures

There are no significant land use impacts related to the project site and the natural gas pipeline. An encroachment permit will be obtained prior to construction of any project facilities, and all mitigation measures stipulated in any such permit will be followed.

8.6.5 Applicable Laws, Ordinances, Regulations, and Standards

All applicable laws, ordinances, regulations, and standards and their conformance measures are detailed in the text below. Table 8.6-2 summarizes this information and provides agency contacts. Table 8.6-3 presents the land use permit schedule.

8.6.5.1 Federal

The Federal Aviation Administration Act and its implementing regulations (14 CFR 77) apply to any structure taller than 200 feet above ground surface at the site of the structure, within three nautical miles of the nearest runway. The RCEC exhaust stacks will be 145 feet tall and thus a permit from the FAA will not be required.

8.6.5.2 State

State LORS that apply to this project include:

Warren-Alquist Energy Resources Conservation and Development Act

Provisions in the Warren-Alquist Energy Resources Conservation and Development Act (Public Resources Code [PRC] 25000 et seq.) are directly and indirectly related to land use. The provisions state, among other things, that:

The following areas of the state shall not be approved as a site for an energy generating facility, unless the commission finds that such use is not inconsistent with the primary uses of such lands and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of such lands is obtained: (a) State, regional, county and city parks; wilderness, scenic or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas in existence on the effective date of this division; and (b) Estuaries in an essentially natural and undeveloped state. In considering applications for certification, the commission shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaeological, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves. (PRC §25527)

The proposed project will conform to PRC §25527 since project lands are not located in either of these areas.

Table 8.6-2. Laws, ordinances, regulations, and standards (LORS).

LORS	Document/Section	Applicability	AFC Section Where Conformance is Discussed
Federal	No permits required	—	—
State			
Encroachment permit for excavation in public roadway	CA Streets and Highways Code, Division 2, Chapter 5.5, Sections 1460-1470	Encroachment permit will be necessary for construction of portions of the natural gas and water and wastewater return pipelines	Section 8.6.2.2
Local			
General Plan Designations	Hayward General Plan	Development within the jurisdiction of the city is subject to provisions in the General Plan	Section 8.6.2.2

McAteer-Petris Act

The McAteer-Petris Act (California Government Code Title 7.2, §66600 et seq.) established the Bay Conservation and Development Commission to administer the Federal Coastal Zone Management Act in the San Francisco Bay Area, and to implement the San Francisco Bay Plan. The BCDC’s requirements are discussed above, as incorporated in the Warren-Alquist Act and as they apply specifically to power plants. BCDC's jurisdiction is the San Francisco Bay, some adjoining drainage areas, and the bay's shoreline band. As mentioned above, BCDC jurisdiction does not apply to the project.

California Streets and Highways Code

Under the California Streets and Highways Code, Division 2, Chapter 5.5, Sections 1460-1470, an encroachment permit is required if there is an opening or excavation for any purpose in any county highway. The RCEC will conform to Section 1460-1470 by obtaining an encroachment permit from the Hayward Public Works Department prior to natural gas pipeline construction.

8.6.5.3 Local

Local LORS that would apply to the project include the following:

General Plan(s)

Land use provisions must be included in every California city and county General Plan (Government Code §65302). Local governments may also adopt plans for sub-areas such as communities and neighborhoods, and may adopt “special area plans” that detail implementation measures for an area requiring concentrated planning attention (e.g., an historical district).

Since the project is located entirely within an Industrial area and is consistent with the intended uses, plans, and policies of the Industrial Corridor land use designation, it will conform to the Hayward General Plan. The generation facility will be the only use visible after construction (since the pipeline will be buried under city streets). The tallest structures at the project site (145 feet) would be considerably lower than the existing KFAX radio towers (228 feet) and also would be lower than the stack at the Rohm and Haas paint polymers plant nearby (180 feet). The project will not effect existing uses or opportunities in the Industrial Corridor since it will be on land that is currently industrial.

Zoning Ordinance

Zoning is the regulatory mechanism used to implement land use policy. Most city planning and building departments enforce zoning ordinances. The proposed project is subject to the Hayward Zoning Ordinance and will comply with it. Hayward zoning designations in the project area are shown on Figure 8.6-2. The project site is currently zoned Industrial District, a use that allows a broad range of industrial activities. The City staff have offered their opinion that the RCEC would be a permitted use in the Industrial District (see Appendix 8.6).

San Francisco Bay Plan

The San Francisco Bay Plan applies to all areas under the jurisdiction of the BCDC. The Plan is an enforceable regulatory mechanism to guide the future protection and use of the San Francisco Bay and its shoreline. The RCEC and AWT plant site are not within BCDC jurisdiction or maritime priority use areas.

8.6.6 Involved Agencies and Agency Contacts

Table 8.6-3 contains a list of agencies and contact persons.

Table 8.6-3. Agencies and contact persons.

Agency	Contact	Title	Telephone
City of Hayward	Dan Garcia	Development Review Engineer	(510) 583-4208
City of Hayward	Gary Calame	Sr. Planner	(510) 583-4226

8.6.7 Permits Required and Schedule

Table 8.6-4 outlines the permit schedule related to land use issues for the RCEC and AWT plant project. Information required to obtain each permit is also included.

Table 8.6-4. Permit/application schedule for land use.

Permit/Application	Schedule
Encroachment permit for water and natural gas pipelines: <ul style="list-style-type: none">• Site specific plan• Pipeline routes• Road rights-of-way where pipelines will be constructed	1 to 2 weeks from application submittal to approval by Public Works Department

8.6.8 References

Association of Bay Area Governments (ABAG). 1997. Bay Area futures: Where will we live and work?
Internet site: www.abag.ca.gov/planning/bayareafutures/

Association of Bay Area Governments (ABAG). 2000. Projections 2000.
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- Bay Conservation and Development Commission (BCDC). 1999. CERES web site. Internet site: www.ceres.ca.gov/bcdc/faq/faq.htm
- California Department of Finance. 1998. County population projections with race/ethnic detail. Internet site: www.dof.ca.gov/html/Proj_race.htm
- California Department of Finance. 1999a. California county profile: Alameda County. Internet site: www.dof.ca.gov/html/fs_data/profiles/alameda.xls
- California Department of Finance. 1999b. City/county population estimates with annual percent change, January 1, 1998 and 1999. Internet Site: www.dof.ca.gov/html/Demograp/e-1text.htm
- California Department of Food and Agriculture. 1999. Alameda county information. Internet site: www.cdfa.ca.gov/counties/Counties/co-01.htm
- City of Hayward. 1998. *Hayward General Policies Plan, adopted 1986 and as amended through February 24, 1998.*
- City of Hayward. 2001a. *The new economy and the transformation of the industrial corridor.* City of Hayward Agenda Report. Prepared by Gary Calame, Senior Planner, City of Hayward Community and Economic Development Department. Background paper for the General Plan Update. Available on Internet site: www.ci.hayward.ca.us.
- City of Hayward. 2001b. *Smart growth principles and the General Plan.* City of Hayward Agenda Report. Prepared by Gary Calame, Senior Planner, City of Hayward Community and Economic Development Department. Background paper for the General Plan Update. Available on Internet site: www.ci.hayward.ca.us.
- Hayward Area Shoreline Planning Agency. 1993. *Hayward Area Shoreline planning program: A shared vision.* Hayward Area Shoreline Planning Agency, Hayward.

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