DOCKET
01-AFC-7C
DATE OCT 24 2007
RECD. OCT 26 2007

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STATE OF CALIFORNIA

STATE ENERGY RESOURCES

Conservation and Development Commission

In the Matter of: Initially noticed as "Petition to Amend the Commission Decision Approving the Application for Certification for the Russell City Energy Center"; Later Noticed as "Modification of the Application for Certification for the Russell City Energy Center"	Docket No.: 01-AFC-7C DECLARATION OF SHERMAN LEWIS IN SUPPORT OF GROUP PETITIONERS' PETITION TO INTERVENE, REOPEN THE ADMINISTRATIVE PROCEEDINGS, REOPEN THE EVIDENTIARY RECORD AND FOR RECONSIDERATION Date: TBD Location.: TBD Time: TBD

I, Sherman Lewis, hereby declare:

1. I am a resident of the City of Hayward, Professor Emeritus in Political Science from California State University East Bay Hayward, and President of the Hayward Area Planning Association (HAPA), founded and led by me since 1978. I am knowledgeable about the issues discussed below from teaching Public Policy and the Environment, reading articles and reports, and participating in regional planning activities. I have personal knowledge of the facts set forth

below and if called as a witness in this matter, would and could testify competently to the following.

2. I have received several emails with substantive information about the two proposed power plants in Hayward, one known as the Russell City Energy Center, a 600-megawatt thermal power plant, and a second known as Eastshore, a 115 megawatt thermal power plant located approximately 1,000 feet away.

3. I have reviewed the relevant parts of the California Energy Commission's Final Decision concerning the Russell City Energy Center Project docketed on October 2, 2007 entitled "Amendment No. 1 (01-AFC-7C) Alameda County."

4. I did not receive notice from the City of Hayward, Alameda County, or the CEC about any issues relating to either power plant despite HAPA's long record of activity in Hayward, including review of proposals governed by the California Environmental Quality Act and federal environmental legislation, such as the Endangered Species Act.

5. After extensive discussion with the Board of Directors of HAPA, I sent a letter for HAPA setting forth our resolutions, in good faith and on time, to the CEC. Attached is a true and correct copy of my letter dated September 25, 2007 faxed to the CEC hearing officer Paul Kramer. I believed the letter constituted valid testimony on the Russell City proposal. I was never informed before or after by the CEC that my letter did not constitute admissible evidence upon which the CEC could rely to support a denial of the project. HAPA has commented in many CEQA proceedings, and I was surprised to find out that HAPA comments did not count unless offered "by a party" and offered under penalty of perjury consistent with the hearsay rules.

6. HAPA is concerned about aviation, air pollution, aesthetics, fossil fuel dependency, greenhouse gases, and the high feasibility of alternative means to meet the need, as set forth in our letter, a true and correct copy of which is attached.

7. The Final Decision to approve any power plant must be based on current conditions, which have changed substantially since 2001 as applied to the Russell plant. The regulations require a current analysis of need and what is the current supply and demand. We now know that alternative methods can meet energy needs. HAPA testimony to this effect, as well as other points, should be part of the official evidentiary record. A finding of need in 2001 is no longer valid in 2007, and any such finding needs to be supported by evidence in the record. In the amendment process, the CEC improperly relies upon an outdated finding of need.

8. The analysis of need justifying certification must be made within the current situation, which now includes ample research on the ability of alternative means such as conservation, efficient lighting and appliances, and building designs reducing demand, solar thermal, solar photovoltaic, small scale whole energy and cogeneration plants, windmills, and larger fuel cells, and emerging research on land use and pricing, to more than meet the need for electricity. These robust policies also support a healthier life-style, less pollution, and less fossil fuel consumption to meet the requirements of new law, especially AB 32.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 24th day of October, 2007, in Hayward, California.

Sherman Lewis

SHERMAN LEWIS

HAYWARD AREA PLANNING ASSOCIATION

September 25, 2007

California Energy Commission
Ms. Jackalyne Pfannestiel, Chair
by fax to Executive Office at 916-654-4420 and Paul Kramer, Hearing Office, 916-654-3897
by email pdf attachment to Jackalyne Pfannestiel <cgraber @ energy.state.ca.us>

Subject: Russell City Energy, Docket 01-AFC-7C for Sept. 26, 2007

Dear Energy Commission:

The Hayward Area Planning Association has serious concerns about the Russell City (Calpine) and East Shore (Tierra) power plants proposed for the Hayward shorelands. These are huge plants in their size and electrical capacity.

While natural gas peaker plants like East Shore are preferable to oil, coal, or new hydro, we believe there are alternatives preferable to natural gas and the severe peaking of electrical demand on hot summer afternoons and on cold winter evenings.

We support not building these two plants. We support, at a minimum, delaying action until substantive and procedural problems are adequately considered by the public, environmental groups, the City of Hayward, Alameda County, the California Energy Commission, and the Bay Area Air Quality Management District. There has not yet been a chance for public consideration of the details of these plants as currently proposed.

The problems are air pollution, misplaced mitigation, hazards to aviation, visual blight, urban heat island effects, use of fossil fuels, and the exclusion of Alameda County from the planning process.

- These plants will cause severe increases in air pollution--particulates, NOx, CO, ROG, SOx, ammonia, other toxic air contaminants. Hayward has no air quality monitoring stations. The Bay trail and the recently purchased salt ponds are nearby. Air pollution will affect recreational users and the Clapper Rail, Snowy Plover, Salt Marsh Harvest Mouse, Least Tern, and other wildlife found within a few miles of the power plants. If the pollution exists, the impacts exist, and should not be superficially dismissed as insignificant by people who don't care about air quality.

- Mitigation measures are inadequate and misplaced, allowing air in and around Hayward to be degraded while pollution credits are used to benefit other areas.

- A plume of hot gases and exhaust rising up to 1,000 feet from proposed exhaust smokestacks 70 feet (Tierra) to 145 feet (Russell) high will pose a hazard to aviation using the Hayward Municipal Airport and, thus, to the public below.

- These proposed exhaust smokestacks, large industrial buildings with cooling towers, and new transmission towers and lines will cause visual blight close to a natural area.

- These plants are not out in some rural area; they are part of the densely populated East Bay plain. Burning natural gas increases local area heat from generating the power and then using it for air conditioning, both of which increase urban heat island temperatures and lead to demand for even more air conditioning--by those who can afford it.

- Burning natural gas produces more greenhouse gases. California and the nation need to decrease use of all fossil fuels and increase the use of alternatives more consistent with sustainability. Air circulation may sometimes reduce the local heat island effect, but the impact on global warming remains the same.

- So far there has been no application to Alameda County for a plant to be built in part in the county.

These plants, if needed at all, should be built where power demand is increasing the most, in Santa Clara and San Mateo counties. They should not be built in places with less increase in demand. Let those most in need bear the external costs. In fact, if the external costs were internalized, these plants would not be proposed in the first place.

There is, however, a better alternative. Electrical needs can be better met with time-of-day pricing, insulation of buildings, fluorescent light bulbs, solar thermal, solar photovoltaic panels, wind energy, energy-efficient industrial motors and household appliances, transit-oriented development, waste cooking oil, and a multitude of additional cost-effective energy conservation strategies. These alternatives reduce fossil fuel use, peak demand, and the need for electricity in general.

Circumstances have changed substantially since these plants were proposed in the midst of an artificial energy crisis. AB 32 is now law. Also, on October 21, 2006, the Governor signed a bill for "a million solar roofs," increasing the effectiveness of PUC policies already in place. Solar roofs alone can supply 3,000 megawatts in California, far more than the 600 megawatts from the Russell City Plant. The Bay Area will get a substantial part of the 3,000 megawatts, and, combined with pricing incentives, sustainable sources, and conservation, alternatives can meet the need for electricity.

The problem is timing. The energy is not really needed now or we would be having brownouts. In the long run alternatives will work. So the problem is how soon the alternatives can be effective relative to the power plants. We know the power plants can be built in a predictable time frame, while opinions vary about alternatives. We believe that stopping the power plants is essential to develop the political will and prices needed to develop the alternative.

We believe there are no technological problems whatsoever with making the alternatives work. There is, similarly, no excuse for building coal or diesel plants.

The shorelands need more protection, not more development. We support conservation, reclamation and preservation of the shorelands in a natural state for habitat, wildlife diversity, and recreational use. HASPA should be strengthened to do its job. Land use designations and zoning should prohibit destructive uses like these power plants.

We need to get off the fossil energy path; we need to get on a sustainable energy path.

Sincerely

Sherman Lewis

Sherman Lewis, President
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