



**California Native Plant Society**  
East Bay Chapter  
Conservation Committee

<b>DOCKET</b> 01-AFC-7C
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July 1, 2008

Commissioners  
California Energy Commission  
Dockets Unit  
California Energy Commission  
1516 Ninth Street, MS 4  
Sacramento, CA 95814  
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**RE: Application for Extension of Russell City Energy Center (RCEC) Docket 01-AFC-07**

Dear Commissioners,

The East Bay Chapter of the California Native Plant Society (EBCNPS) appreciates the opportunity to comment on the *Application for Extension for the RCEC*. The California Native Plant Society (CNPS) is a non-profit organization of more than 10,000 laypersons, professional and academic botanists organized into 33 chapters throughout California. The mission of the CNPS is to increase the understanding and appreciation of California's native plants and to preserve them in their natural habitat through scientific activities, education, and conservation.

EBCNPS has never received any notice from the CEC regarding any aspect of this project; therefore, this will be our first opportunity to bring our concerns to the CEC's attention, and some of this information will be reported for the first time.

**General Considerations**

In reviewing the Biological Resources sections of both the original application and the amended application (when Calpine relocated the plant site), we find the botanical surveys to be wholly inadequate and inaccurate (see details below). In addition, certain types of impacts are never addressed, analyzed or mitigated. Critical information is missing from the entire file extending from 2001 to the present.

The CEC is a lead agency that is required to follow a CEQA-equivalent process in its review of new projects. It must maintain a list of all permitting and consulting agencies.

These agencies must be notified each time the public record is opened.

**It is not the CEC's role to decide what information can be withheld from agencies by not serving notice to them.**

In contacting a number of different agencies including the California Department of Fish and Game, US Fish and Wildlife Service, the SF Bay Regional Water Quality Control Board, and the Hayward Area Shoreline Planning Agency, we have learned that none of these agencies were notified that the applicant had applied for a second extension of its permit. We had to request pertinent information three different times in order to be able to comment on this process.

### **Specific Considerations**

#### **Impacts to sensitive resources**

##### Jurisdictional wetlands

Although the amended application claims that no jurisdictional wetlands will be impacted by the project, Figure 2 (Source: Exhibit 100) of the project description shows that one of the RCEC construction laydown sites is located directly on top of the same wetlands that previously triggered the need for a USFWS Biological Opinion. Utilizing a Section 404 CWA wetland as a laydown site would require consultation and trigger the need for a full Biological Opinion.

Furthermore this site contains a population of Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*) which was not identified in the botanical survey because only one survey was done in early spring before this taxon was identifiable. Congdon's tarplant is a CNPS list 1B plant which is protected by CEQA and requires surveys in August in order to positively identify this subspecies of rare tarplant.

##### Impacts of RCEC air emissions

#### **Nitrogen Deposition**

The applicant's modeling data show that Garin Regional Park would be the site that receives the highest rate of annual nitrogen deposition. At that location in the park, there is a serpentine outcrop that contains a population of Most-beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*), a CNPS list 1B plant. According to a 2006 CEC-commissioned report by Dr. Stuart Weiss, *Impacts of Nitrogen Deposition on California Ecosystems and Biodiversity*, "nitrogen deposition impacts on ecosystems and species are extensive in California and should be consider in local environmental assessments... this report provides regulatory guidance for impact assessments of new power plants." In particular, serpentine environments and vernal pools were shown to be significantly impacted by excess nitrogen. Furthermore, nitrogen emissions from Calpine's Metcalf plant (Santa Clara County) were shown to have a significant impact on

the local serpentine resources sufficient to require environmental review and mitigation. Additionally, vernal pools on the original RCEC site are located only 1300 feet from the present location and will be subject to high loads of nitrogen from power plant emissions.

Finally, the East Bay Regional Park District raised concerns in a 2001 letter to US Fish and Wildlife Service requesting information regarding exposure limits of sensitive species to emissions from power plants; “Nitrogen, ammonia, and phosphorous residues emitted through the cooling towers can stimulate the growth of plants in the marshes, most notably *Spartina alterniflora*, the invasive cordgrass, which has severely affected the Clapper Rail habitat in Cogswell and other nearby marshes including the Don Edwards NWR complex” (Didonato, 12/05/01).

### Toxic Emissions

There has been no discussion of the impact of toxic air emissions including heavy metals, volatile organic compounds (VOC's) on nearby sensitive salt marsh habitat. Acrolein is known to be produced from gas-fired turbines in power plants and is a known threat to human health, particularly to respiration, yet there has been no attempt to discuss the impact on sensitive animal species.

It is not known whether RCEC still plans to add hexavalent chromium to its cooling water as was originally proposed to prevent rust and scale residues on the inside of the cooling towers. Regulations by the California Air Resources Board (CARB) forbid the use of hexavalent chromium because it is a known human carcinogen. There are current background levels of hexavalent chromium in the air and water. The Hayward water treatment plant does not have the capacity to remove hexavalent chromium from the water. As a result, some of the background chromium will be released with the air emissions and will fallout in the nearby area, including the local neighborhoods and the salt marsh where it can bioaccumulate. In addition, as the cooling water is returned to the treatment plant, the water will have a greater concentration of hexavalent chromium. The power plant will serve as a device for concentrating a toxic substance that accumulates in our environment. Pacific Gas and Electric was successfully sued for hexavalent chromium contamination of groundwater in Hinkley, California in the 1990s. Its remediation continues today.

### Greenhouse gas emissions

The US EPA has already stated that greenhouse gases endanger public safety and welfare. Additionally, greenhouse gas emissions impact analysis is required in any CEQA project according to the California State Attorney General's office. RCEC will triple the present volume of greenhouse gases from all sources (including cars, industry, and homes) in the City of Hayward. There is no discussion of these impacts in any of the documents produced for RCEC.

### Water Quality

All of the cooling water and wastewater from RCEC would be treated by the Hayward water treatment plant, as mentioned above, with its limited capacity to remove toxics. In addition, storm water, which can be expected to contain chemicals hazardous to the Bay and its plant and animal communities, must be adequately managed. However, the SF Bay Region of the California Regional Water Quality Control Board has found the storm water management system for RCEC to be inadequate and does not meet best management practices required by the Clean Water Act (Brian Wines, Personal Communication). The agency's concerns were communicated in 2006, along with a request to extend the comment period, which was denied.

## **Cumulative and Growth Inducing Impacts**

### **Lighting Impacts**

Twenty-four hour lighting was required by the FAA as mitigation to the aviation hazards posed by the power plant, but the biological impacts of this mitigation were never adequately assessed. This mitigation appeared *after* consultation with the FWS, so the agency never saw this information or had an opportunity to comment. These lights will have an impact on migratory birds which make use of this important corridor designated as an "Important Bird Area". The cumulative impacts of the required aviation lighting of all the towers, stacks, and facilities in the immediate vicinity of RCEC have never been discussed. Some of these projects with required aviation lighting include Salem radio towers, KFAX radio towers, and the Eastshore power plant.

### **Growth Inducing Impacts**

No growth inducing impacts for the RCEC were mentioned in the Presiding Member's Proposed Decision (August 2007) nor in the Errata published on 9/27/2007, despite the fact that the new plant will produce 600 megawatts of power. CEQA requires that growth-inducing impacts must be addressed.

## **Conclusion**

We find that the RCEC is a large project that cannot be sufficiently mitigated given the levels of impacts to sensitive resources in the immediate vicinity and to the health and safety of local residents.

This project was initiated in 2001. Seven years and one extension later, the proponent has not been able to demonstrate that it can meet reasonable environmental standards on a timely basis. The RCEC is not a "vital new source of *clean, reliable energy*" as Calpine claims. **We urge the CEC to deny this extension.**

Sincerely,

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Jose Mercury News