

**Applicant's Comments on the  
California Energy Commission  
Staff Assessment**

Of the  
**Application for Certification**  
For the  
**Russell City Energy Center**  
Hayward, California  
01-AFC-07

Submitted to the  
California Energy Commission

Submitted by  
Russell City Energy Center LLC

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# CONTENTS

CONTENTS	ii
INTRODUCTION	1
<b>I. PROJECT DESCRIPTION</b>	
EXECUTIVE SUMMARY	2
INTRODUCTION	2
PROJECT DESCRIPTION	2
RESPONSE TO COMMENTS	2
<b>II. ENVIRONMENTAL ANALYSIS</b>	
AIR QUALITY	3
BIOLOGICAL RESOURCES	3
CULTURAL RESOURCES	5
HAZARDOUS MATERIALS	7
LAND USE	7
NOISE	8
PUBLIC HEALTH	8
SOCIOECONOMIC RESOURCES	8
SOIL & WATER RESOURCES	8
TRAFFIC & TRANSPORTATION	9
TRANSMISSION SAFETY & NUISANCE	9
VISUAL RESOURCES	9
WASTE MANAGEMENT	9
WORKER SAFETY	10
<b>III. ENGINEERING ASSESSMENT</b>	
EFFICIENCY	11
FACILITY DESIGN	11
GEOLOGY AND PALEONTOLOGY	11
RELIABILITY	11
TRANSMISSION SYSTEM ENGINEERING	12
ALTERNATIVES	13
<b>IV. GENERAL CONDITIONS</b>	14

## INTRODUCTION

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The following are the Russell City Energy Center's (Applicant's) comments on the California Energy Commission (CEC) Staff Assessment for the Russell City Energy Center (RCEC) (01-AFC-0). The comments include notes on typographic errors, questions of fact, analysis, or conclusions drawn in the Staff Assessment, and discussion regarding the Staff's proposed Conditions of Certification. The comments are listed in the same order as the Staff Assessment (Project Description, Environmental Analysis, Engineering Assessment, General Conditions).

## PROJECT DESCRIPTION

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### Executive Summary

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Page 1.5:

- Transmission System Engineering, line 6. Change “congestion management” to “remedial action schemes”
- Delete "The Cal-ISO, however, has not yet approved the use of congestion management and reconductoring of lines may be required. (Although it is not expected, if reconductoring is necessary, the possibility of significant environmental impacts may yet arise.) Staff expects the Cal-ISO to make its decision prior to the evidentiary hearings on the RCEC’s certification.”

### Introduction

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Page 2-3, line 6

- Change "four-month" to "six-month"

### Response to Comments

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Page 3.0-4, 5<sup>th</sup> citation

- Change "HERD" to "HARD"

## ENVIRONMENTAL ANALYSIS

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### Air Quality

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Page 3.1-7, final sentence

- This sentence states: "...the calculated number of daily violations could be as high as six times the measured number of violations indicated." This sentence is speculative and unnecessary and should be deleted.

Page 3.1-11, 7<sup>th</sup> bullet

- The "emergency" generator should be referred to as the "standby" generator.

Page 3.1-13, Table 7

- See comment above, "emergency" should be "standby."

Page 3.1-26, Cooling Towers

- Refers to "...two proposed cooling towers..." The RCEC will use only one cooling tower.

Additional comments will be provided prior to the December 4 Staff Assessment Workshop on Air Quality.

### Biological Resources

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Page 3.2-3, paragraph two

- This paragraph states: "...the proposed project region was historically dominated by coastal salt marsh habitat." The project area as defined by the CEC (1-mile buffer around power plant site and 1,000 foot buffer on either side of all linear features) does include some coastal salt marsh habitat. However, both the power plant site and linear features are located on the East Bay alluvial plain (Sowers et al. 1997), which historically contained a wide diversity of habitats, including coastal prairie, coastal sage scrub, vernal pool complexes, and willow groves. The power plant site itself is located on this alluvial plain near salt marsh, but is not salt marsh habitat itself. Rather it consists of disturbed upland ruderal habitat, with some native grassland elements.

Sowers, J.M., W. Lettis & Associates. 1997. Creek and Watershed Map of Hayward & San Leandro. Oakland Museum of California, Oakland, CA.

Page 3.2-7

- Cites potential impacts on salt marsh harvest mouse, California clapper rail, California least tern, and western snowy plover. Though these are all protected species known to occur near the project site, the potential effects of the project are to salt marsh harvest mouse habitat only. Potential direct or indirect effects on the other species are speculative and unlikely, but will be mitigated.

Page 3.2-6 Environmental Checklist

- The CEQA checklist table (a) lists effects on protected species as “potentially significant.” This should be “Less than significant with mitigation incorporated.” Applicant has agreed to and proposed mitigation in the BA, and the Fish and Wildlife Service has informally agreed that the BA resolves the issues of concern they expressed in their letter. Staff has proposed conditions for bird flight diverters and noise mitigation. These conditions are acceptable to Applicant. The footnote to the table mentions that the Applicant is developing mitigation measures but that the impact is potentially significant until the mitigation is finalized. The note should instead state that acceptable mitigation is a condition of certification.

Page 3.2-7 Environmental Checklist

- The CEQA checklist table (c) lists wetlands fill effects as “potentially significant.” This should be “Less than significant with mitigation incorporated.” Applicant has proposed mitigation and the SA includes such mitigation as a Condition of Certification. The Corps of Engineers Clean Water Act Section 404 wetland fill permit is this a prerequisite to project construction in the SA.

Page 3.2-7 Environmental Checklist

- The CEQA checklist table lists “interfere substantially with the movement of any native resident or migratory fish or wildlife species...” (d) as a “potentially significant impact” for noise and habitat loss. This should be “Less than significant with mitigation incorporated.” The Staff has imposed a condition on noise and for habitat loss. The RCEC will not interfere substantially with the movement of species or with “the use of native wildlife nursery sites” adjacent to the construction and operation site or at the construction laydown areas due to mitigation measures that will be implemented. There is no basis for requiring mitigation for general habitat loss at the PG&E Substation because the project would not interfere with wildlife movement substantially and would not affect key wildlife corridors or other significant habitats. It is not necessary that the mitigation plan be finalized for a license to be issued.

Page 3.2-12

- Staff Assessment concludes that mitigation will be required to compensate for the loss of 10 acres of ruderal habitat (temporary construction loss) and 2 acres of ruderal habitat (permanent loss). Applicant finds no regulatory basis for this requirement. The affected land does not qualify as a key migration corridor or nursery area. Applicant requests that Staff identify the studies or records that indicate the PG&E Substation contains sensitive habitat, legally protected species, wetlands, key migration corridors, or nursery areas that will be impacted by the temporary or permanent disturbance of the PG&E Substation.

Page 3.2-10 and BIO-12

- There is no scientific basis for a requirement to limit operational noise to 65 dBA at the southern fence and to monitor operational noise for the life of the project. The change to existing ambient conditions will not be sufficient to affect wildlife (Condition BIO-12).
- Applicant suggests removing the requirement to monitor project noise for the life of the project. The project will be required to demonstrate and maintain compliance with the City's noise standards. Compliance measures for community noise should be sufficient to demonstrate compliance with BIO-12.

Page 3.2-17, Response to East Bay Regional Parks District EBRPD (8-20)-1

- The EBRPD comment raises the issue of construction damage to and potential loss of sensitive salt marsh areas. Staff responds that Applicant will be required to provide appropriate compensation for loss of habitat. Applicant suggests that Staff add a statement to the effect that the project will not directly affect any sensitive salt marsh areas. Temporary fencing will prevent construction vehicles from affecting upland areas on the adjacent parcel.

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## Cultural Resources

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Page 3.3-9 and 10: Condition CUL-2

- Condition CUL-2 says that the Designated Cultural Resources Specialist (CRS) shall consult weekly with the Construction Superintendent regarding construction areas and schedules. It is more feasible to require the on-site monitor to consult weekly with the Construction Superintendent during periods of ground disturbance. The Monitor will be on site and will work with the Superintendent and others on site to determine where ground disturbance activities are to be performed and this checking will naturally devolve to the Monitor. The CRS should consult with the monitor weekly to make certain that there is a proper flow of information.
- Condition CUL-2 also requires that schedules of construction activity be provided the Compliance Project Manager (CPM) on a weekly basis and provided to the CPM in the Monthly report. Though it is not clear whether the requirement is for weekly or monthly coordination, this requirement does not belong in the Cultural Resources conditions, but in

general construction conditions.

Page 3.3-10 through 12: Condition CUL-3

- CUL-3 requires the development of a Monitoring and Mitigation Plan, and specifies (h) a discussion of the availability and access to equipment and supplies for site mapping, photographing, and data recovery. Applicant suggests deleting this requirement. The equipment mentioned is widely available. To state so in the MMP would be superfluous. A requirement for an inventory of such equipment would be burdensome.
- CUL-3 also requires a Cultural Resources Report that includes “All survey reports, monitoring records....” in an appendix. The daily and monthly monitoring records will be in the project file already. Including all of the daily monitoring records in the report would make for a very large volume. Should be either the monthly reports or none of them.

Page 3.3-13 and 14: Condition CUL-6

- CUL-6 says that the CRS should prepare a weekly report to the CPM. This would be burdensome and have limited benefit. The CPM will be notified immediately if there is a find. Applicant suggests a monthly report summarized by week by week, during the months when field monitoring takes place.
- CUL-6 (4) calls for a Native American monitor. There is no regulatory requirement under either CEQA or federal regulations that Native American monitors be present for construction activity. Some organizations recognize a benefit in having a monitor present if human remains are found or are likely to be found (to avoid public relations problems and construction delays) and employ them. It should be the Applicant’s choice. Applicant suggests removing this requirement.

Page 3.3-14: Condition CUL-7

- Similarly, CUL-7 requires that a Native American monitor be present on archaeological surveys of newly identified construction laydown areas. There is no basis for this and the Staff should remove it (see comment above).

## **Hazardous Materials**

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Page 3.4-5, Paragraph 3

- States that the quantity of sulfuric acid stored is 5,000 pounds. The quantity proposed is 5,000 gallons (RCEC) plus 7,000 gallons (AWT).

Page 3.4-9: Condition HAZ-2

- Condition HAZ-2 requires that the Risk Management Plan and Hazardous Materials Business Plan be submitted 30 days before construction. The Cal-ARP regulations, however, require an RMP for a new source to be submitted to the EPA and CUPA by the date the regulated substance will be present on the site above the threshold quantity. The proposed Condition should be revised to reflect the timeline imposed by the applicable LORS.

## **Land Use**

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No comments.

## **Noise**

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Page 3.6-22: Condition NOISE-6

- In the second paragraph of the NOISE-6 Protocol section, Applicant proposes that the clause “as a result of the project” be inserted after “indicate that” in the first sentence. Background noise levels could increase due to causes other than the project and the project should not be held liable for the noise of others.
- The Verification section of NOISE-6 requires a summary report of the post-construction survey within 15 days of completion. It also requires a revised report within 15 days of implementing additional mitigation measures after the post-construction survey. Applicant proposes that Staff increase the two durations to 30 days.

Pg. 3.6-13, second paragraph, third line.

- Change “Adjacent to the WPCF” to “On the northern site boundary”.

Pg. 3.6-13, second paragraph, second from last line

- Change “levels of 75 Ldn” to “level of 75 Ldn”.

Pg. 3.6-14, second paragraph, fourth line

- Insert “of” between “increase more”.

Pg. 3.6-14, fourth paragraph, second line

- Insert “the” between “to outside”.

Pg. 3.6-15, third paragraph, third line

- Change “piling” to “pile”.

## **Public Health**

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Page 3.7-5 and 3.7-6

- Staff conducted a risk analysis for construction equipment and concluded insignificant risk. Staff has assumed, however, that the construction equipment used for the project would not be used elsewhere if not used to construct the RCEC. Since this assumption is incorrect, the analysis is not needed.

## **Socioeconomic Resources**

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No comments.

## **Soil & Water Resources**

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Page 3.9-20: Condition SOIL & WATER 4

- Condition SOIL & WATER 4 requires that the project owner install metering devices to record the amounts of recycled and fresh water used. This information is to be provided to the City of Hayward. The City of Hayward will own and operate revenue meters to measure recycled and potable water use at RCEC. Applicant suggests deleting this requirement, since the City will own and operate the Advanced Water Treatment Plant and provide revenue metering for the AWT, as well as potable and backup feed water.

## **Traffic & Transportation**

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Page 3.10-6

- Staff concludes that there will be truck turn-around difficulties at the end of Enterprise Avenue. If this is found to be true, Russell City Energy Center will make provisions for

truck to turn around within the construction area.

Page 3.10-9: Condition TRANS-1

- Condition TRANS-1 calls for counting turning movements every four months at Enterprise Avenue and Clawiter Road to confirm construction trip generation rates. The intent of this requirement is not clear. Staff is requested to either clarify the intended application of the data that would be generated by the proposed counting of turning movements, or delete this proposed requirement.

## **Transmission Safety & Nuisance**

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No comments.

## **Visual Resources**

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Comments will be provided at the Staff Assessment Workshop in November 29.

## **Waste Management**

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Page 3.13-5, paragraph 6

- The sentence: "The refinery complex is immediately bordered by 470 acres of mostly undeveloped Valero property to the south and west and general industrial uses to the north and east." does not refer to the RCEC project area and should be deleted.

Page 3.13-9: Condition WASTE-5

- According to Condition WASTE-5, Applicant must submit a Remedial Action Plan for contamination and a schedule to remediate the site before construction starts. If remediation requires soil excavation, however, this may be done as part of early construction grading. Applicant requests that this condition be restated to allow remediation as part of early construction.

## **Worker Safety**

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Pages 3.14-12 through 14: Conditions of Certification

- Applicant suggests removing the requirement for air monitoring using EPA REL criteria. EPA REL criteria are established on long-term exposure criteria and are thus levels much lower than those normally established for worker exposure. Worker exposure to diesel particulates will be almost nil if they are in an outdoor work area and especially if the equipment will have pollution control devices installed. An ACGIH recommended level is 50 micrograms per cubic meter. This is far less than the PEL/TLV for PAHs, which is 200 micrograms per cubic meter.

# ENGINEERING ASSESSMENT

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## Efficiency

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No comments.

## Facility Design

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Page 4.1-3, paragraph 4, minimum standard for seismic design

- This paragraph should specify that a peak ground acceleration (pga) of 0.61g should be used for the structural design of the AWT.

## Geology & Paleontology

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Page 4.2-10 and 11, Condition PAL-2

- Condition PAL-2 says that the monitor shall halt construction in the event of a vertebrate fossil find until its significance can be determined. Applicant recommends clarifying this statement to specify that it applies only to macro-vertebrate finds, which are rare, not micro-vertebrate specimens (mice, voles, etc.) that require extensive screening to locate and identify. Such small specimens are more or less evenly distributed in these sedimentary environments and therefore could be found by sampling anywhere on this alluvial fan surface. Because these more widely distributed types of specimens are widely distributed and common, they do not qualify as unique paleontologic resources under CEQA checklist.

## Reliability

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No comment.

## Transmission System Engineering

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Page 4.5-3

- Line 1: Change "of a new switchyard adjacent to the East Shore Substation" to "of the expansion of the East Shore Substation."
- Existing Facilities and Related Systems, line 2: Change "by way of a new switchyard" to "by way of an expansion of the existing substation."
- Para 4, line 1: Change "A new switchyard" to "An expanded substation."
- Line 2; Change "...to the new switchyard..." to "...to the new substation expansion area."
- Interconnection Facilities, line 2: Change "...interconnection from the RCEC to a new switchyard to be located at PG&E's..." to "...interconnection from the RCEC to an a new 230 kV section at PG&E's..."

#### Page 4.5-4

- Line 1: Change "A new switchyard" to "An expanded substation."
- Line 4: Change "...to the East Shore line..." to "...to the East Shore substation..."
- Line 6: Change "...to the new switchyard..." to "...to the expanded substation..."
- Transmission Line, line 6: "...both new towers and replacement towers..." The current plan calls for new towers only.

#### Page 4.5-5

- End of second paragraph: Delete: "The Cal-ISO and PG&E have not yet approved the applicant's choice of mitigation. Discussions between the Cal-ISO, PG&E, applicant, and staff are ongoing and it is anticipated that approved mitigation will be known prior to the evidentiary hearings on RCEC certification." Replace with: "Studies show that a remedial action scheme (RAS) is an option to reconductoring the Eastshore-San Mateo lines. The ISO has granted preliminary interconnection approval for the project and has indicated in testimony that RAS is a viable option."

#### Page 4.5-8

- Add a third bullet under "Mitigation" as follows: "Utilize remedial action schemes (RAS)."
- Line 1 of second paragraph (not including bullets): Replace "intra-zonal congestion management" with "RAS."
- End of second paragraph (not including bullets): Replace the last 2 sentences with: "Studies show that a RAS is an option to reconductoring the Eastshore-San Mateo lines. The ISO has granted preliminary interconnection approval for the project and has indicated in testimony that RAS is a viable option."

#### Page 4.5-11

- Conclusion 2: Replace "congestion management" with "RAS" and replace: "The Cal-ISO, however, has not approved the use of ..." with "The Cal-ISO has granted preliminary interconnection approval based on studies that show RAS is an option to reconductoring."

#### Page 4.5-12

- Recommendations, sentence 1: Replace: "Staff cannot recommend the project until the Cal-ISO makes a decision..." with "Based on the System Impact Study and ISO testimony, preliminary interconnection approval, staff conditionally recommends the project proceed with the implementation of RAS instead of reconductoring the Eastshore-San Mateo lines."

## **Alternatives**

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No comments.

## GENERAL CONDITIONS

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Page 5-3

- Last paragraph: The RCEC is designed as a combined-cycle plant, so conversion from simple-cycle to combined-cycle will not be necessary. This reference should be deleted.