



California Energy Commission

**DOCKETED**

**01-AFC-7C**

**TN # 70638**

**MAY 06 2013**

California Energy Commission  
Dockets Unit, MS-4  
Docket No. 01-AFC-7C  
1516 Ninth Street  
Sacramento, CA 95814-5512

May 6, 2013

**Re: Docket Number 01-AFC-7C**

Dear Commissioners,

The Energy-Climate Committee of the San Francisco Bay Chapter, Sierra Club writes to request the formation of a committee and evidentiary hearings to address the request by the Russell City Energy Center LLC (RCEC) to amend the Conditions of Certification (COC) required of the RCEC, including but not limited to the claims of the RCEC and the counter-claims of the Hayward Area Parks and Recreation Department (HARD) concerning the RCEC's request for the unprecedented Commission action of removing a COC granting the most minimal of mitigations to an affected public agency against that agency's wishes.

The San Francisco Bay Chapter of the Sierra Club represents 30,000 members in California including members in the Southern Alameda Group who regularly use that area of the San Francisco Bay shoreline that will be impacted by the operation of the RCEC.

The Sierra Club has numerous unanswered concerns about the deteriorative impacts of the RCEC to local endangered species, as well as local naturalist programs and public facilities used by our members and other citizens who frequently visit the Hayward shoreline Bay Trail. These concerns include but are not limited to the significant visual impacts this fossil fuel power plant will have on our treasured shoreline.

As the City of Hayward clearly states in its letter of support (submitted to the Commission) for HARD's position;

"...the visual impacts of the RCEC extend beyond views of Mt. Diablo from the Interpretive Center. The power plant at the new location **clearly and significantly** affects views in the surrounding area, including the Hayward Shoreline Interpretive Center, the shoreline, and associated trails." [ highlight added]

The Sierra Club completely agrees with both HARD and the City of Hayward in their analysis of the deteriorative visual impact that the RCEC inflicts on users of this section of the Bay Trail, the Shoreline Interpretive Center, and HARD shoreline program users, including the thousands of Bay Area school children who participate in HARD shoreline activities every year.

The City of Hayward also notes in its letter to the Commission that even full implementation of the existing minimal visual mitigation COCs are orders of magnitude cheaper to the owner- operators of this fossil fuel power plant than had originally been proposed;

“It is important to note that VIS-9 and VIS-10 in their present forms reflect a significantly reduced obligation on the project owner, and are far less costly to implement compared to the original plan to construct an architectural shield and artwork. This architectural treatment would have purportedly cost **several million dollars.**” [highlight added]

The Sierra Club also supports HARD’s position that the visual impacts of the RCEC lighting plan including the aviation safety lighting must be analyzed for their visual impact as needs be the visual impact (and other impacts) of the new Federal Aviation Administration requirement of aircraft to fly upwind of the RCEC aviation safety hazard, over HARD property, programs and endangered species nesting and breeding grounds.

Of special concern to the Sierra Club are the visual and other deteriorative impacts to the Hayward Least Tern Breeding Colony from all visual stimulus from the RCEC project; lights, aircraft passing overhead etc. The Hayward Least Tern Colony is one of the two most productive colonies in the state of CA and the impacts to this federally listed endangered species are one of the issues that must be fully addressed in evidentiary hearings.

At a minimum the Vis-9 COCs need to be significantly increased, *not* removed.

Also to be addressed in the evidentiary hearings are the inappropriateness of allowing the proposed changes to AQ-SC12. Allowance of RCEC to fulfill the entirety of its obligation to mitigate its PM 10 emissions through ERCs completely eradicates even that most minimal mitigation this COC was alleged to provide to the already disproportionately polluted local community. Hayward is one of the Bay Area Air Quality Management District’s (BAAQMD) identified “CARE” communities and despite the arguments of both the CEC staff member who designed the fireplace retrofit program and Hayward citizens that the program would not work in Hayward, the Commission imposed this mitigation scheme. This now failed scheme was the only mechanism allowed to provide some degree of *local* PM 10 mitigation. In light of its failure the Commission must allow in evidentiary hearings examination of an alternative program for local PM 10 mitigation.

Until the conclusion of all evidentiary hearings, RCEC should have to *surrender* all ERCs no less than 60 days prior to initial startup.

The Sierra Club opposes bifurcation of the RCEC’s requested Amendment #4 proceedings and opposes RCEC’s requested changes to; Vis-2,Vis-10 and Haz-5, AQ-11,AQ-19,AQ-29,AQ-30,AQ-32,AQ-34,AQ-45.

Sincerely,

/s/ David McCoard,  
Chair, Energy-Climate Committee  
San Francisco Bay Chapter, Sierra Club  
2530 San Pablo Ave. Suite I  
Berkeley, CA 94702-2000