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<b>DOCKET</b>	
<b>01-AFC-7C</b>	
DATE	AUG 09 2010
RECD.	AUG 10 2010

9 STATE OF CALIFORNIA  
10 STATE ENERGY RESOURCES

11 Conservation and Development Commission

12 In the Matter of:

13 APPLICATION FOR SECOND AMENDMENT  
14 TO CERTIFICATION FOR RUSSELL CITY  
15 ENERGY CENTER

Docket No.: 01-AFC-7C

CHABOT-LAS POSITAS' REQUEST FOR  
CONTINUANCE; PREPARATION OF  
UPDATED FINAL DETERMINATION OF  
COMPLIANCE; AND REQUEST FOR  
EVIDENTIARY HEARING

REQUEST FOR ADMINISTRATIVE  
NOTICE

1           **REQUEST FOR CONTINUANCE AND PREPARATION OF STAFF REPORT TO**  
2           **ADDRESS THE PROJECT AS A WHOLE AND TO UPDATE THE THREE YEAR OLD**  
3           **FINAL DETERMINATION OF COMPLIANCE WITH STATE LAW**

4           Before the Commission is the proposed Russell City Energy Center (RCEC), a 600  
5 megawatt thermal fossil fuel power plant which will be the number two power plant polluter of  
6 CO2 in the nine Bay Area Counties and the number six polluter of CO2 overall in the nine Bay  
7 Area Counties including the refineries. The Chabot campus is one of two community college  
8 campuses of the Chabot-Las Positas Community College District located approximately 1.35  
9 miles southeast of the proposed RCEC 600 megawatt gas fired thermal power plant. The Chabot  
10 campus is located on the west side of the arterial Hesperian Boulevard, a six to eight lane  
11 thoroughfare running north south and parallel to Interstate 880, a State arterial carrying significant  
12 vehicle and truck traffic located less than one mile east of the Chabot campus and identified by the  
13 State as a “hot spot.” South of the Chabot campus is Highway 92.

14           The Chabot campus consists of over 15,000 students, faculty and  
15 Staff, and its campus community includes a childcare facility. In 2009, after Chabot-Las Positas’s  
16 last appearance before this Commission, the Chabot campus qualified for designation as a  
17 Hispanic-Serving Institution, or HSI under federal law with its Latino students making up 32  
18 percent of all new students on campus, and 26 percent of total enrollment. Additionally, since  
19 this Commission last heard any matters on this project, BAAQMD is not only designated as non-  
20 attainment for 8 hour ozone, but also has been designated non-attainment for 24 hour PM2.5 under  
21 the Clean Air Act.

22           Since the Commission last heard any matters on this application, the Environmental  
23 Protection Agency in 2009 disclosed that Alameda County had the highest ground level ozone  
24 concentration of the nine Bay Area Counties, 81 parts per billion, which has been linked to health  
25 problems and premature death. (San Francisco Chronicle: *Compare*, the Counties of San  
26 Francisco, Marin and San Mateo: 47, 50 and 54 ppb respectively.)  
27  
28

1 In December 2009, BAAQMD's Community Air Risk Evaluation (CARE) Program  
2 identified Western Alameda County, where the Chabot is located and next to where RCEC would  
3 be located, as one of the communities as "likely to face the highest health risks from toxic air  
4 contaminants (TAC)." Many of the students who attend Chabot lack medical insurance coverage.  
5 The Chabot campus has served historically disenfranchised populations, with the majority of  
6 students from race-ethnicity groups consisting of African American, Asian American, Filipino,  
7 Latino, as well as socio-economically disadvantaged Caucasian students.  
8

9 According to the testimony of Dr. Sandra Witt of Alameda County's Public Health  
10 Department presented at the evidentiary hearing for the *Eastshore* application heard after the  
11 certification of the first amendment for RCEC, which this Commission properly denied, the  
12 community in which both the Chabot campus and RCEC are located suffer from chronic health  
13 issues not present in other nearby Bay Area communities. Dr. Witt's testimony specifically refers  
14 to the County's recent publication entitled "Race, Class, and the Patterns of Disease Distribution  
15 in Hayward; Decision –Making that Reinforces Health Inequality." (*Compare* BAAQMD Dec.  
16 2009 CARE Memo: "identifying areas that (1) are close to or within areas of high emissions of  
17 toxic air contaminants, (2) have sensitive populations, defined as youth and seniors, with  
18 significant TAC exposures, and (3) have significant poverty."  
19

20 Contrary to the expectations presented by RCEC at this Commission's July 18, 2008  
21 hearing at which this Commission generously granted RCEC another two year extension for this  
22 project applied for in 2001, the proposed PSD permit was revised by BAAQMD which did not  
23 issue its most recent proposed PSD permit until February 2010. This is to bring to your attention  
24 that pending before the Environmental Appeals Board are the appeals by Chabot-Las Positas, the  
25 California Pilots Association, Citizens Against Pollution, Californians for Renewable Energy,  
26 Robert Sarvey and Robert Simpson. EAB Appeal Nos. PSD 10-01,  
27  
28

1 et al., available at

2 [http://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/df250cd](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/df250cd)  
3 [e9ddc2bce852576ef00513d84!OpenDocument](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/f22b4b245fab46c6852570e6004df1bd/df250cde9ddc2bce852576ef00513d84!OpenDocument).

4 Also an appealing party but subsequently dismissed due to its tardiness in submitting its  
5 appeal was the Hayward Area Recreation District which sought review and remand. Although not  
6 an appellant, the California Department of Transportation Aeronautics Division submitted a letter  
7 brief in support of the California Pilots Association appeal to the EAB. *See EAB link above.*

8  
9 We also understand that since July 2008, the Federal Air Aviation Permit (7460) upon  
10 which the aviation requirements of the first amendment is based expired, Although the permit was  
11 later renewed, we understand that the California Pilots Association appealed its renewal which is  
12 presently pending before the FAA. As a result, in addition to not possessing a FAA permit, to date  
13 the EAB has not taken action on the five appeals before that Board. As a result, under 40 C.F.R.  
14 section 124.19(f)(1), defining when a permit has been “issued,” no PSD permit has been issued for  
15 this project and Staff’s Analysis must be revisited as it is erroneously based on the presumption  
16 that the permit has been “issued.”

17 **Staff’s Air Analysis Is Fundamentally Flawed Since It Incorrectly Presumes That A PSD**  
18 **Permit Has Been Issued When In Fact No PSD Permit Was Ever Issued For This Project.**

19 40 C.R.R. section 124.19(f)(1) provides the following:

20 (f)(1) For purposes of judicial review under the appropriate Act, **final agency**  
21 **action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is**  
22 **issued by EPA** and agency review procedures under this section are exhausted. **A**  
23 **final permit decision shall be issued by the Regional Administrator: (i) When**  
24 **the Environmental Appeals Board issues notice to the parties that review has**  
25 **been denied; (ii) When the Environmental Appeals Board issues a decision on**  
26 **the merits of the appeal and the decision does not include a remand of the**  
**proceedings; or (iii) Upon the completion of remand proceedings if the**  
**proceedings are remanded**, unless the Environmental Appeals Board's remand  
order specifically provides that appeal of the remand decision will be required to  
exhaust administrative remedies.

27 (Emphasis added.)

1 According to Staff's June 28, 2010 Air Quality Analysis, the new ambient air quality  
2 standard for NO<sub>2</sub> "is applicable to all PSD permits issued after April 12, 2010, but is inapplicable  
3 to projects for which PSD permits were issued prior to that date. The PSD permit for RCEC was  
4 issued on February 3, 2010. " June 28, 2010 Air Quality Report, p. 3. As reflected above, no PSD  
5 permit has been issued for RCEC and therefore the new ambient air quality standard for NO<sub>2</sub> must  
6 be applied and compliance demonstrated. As discussed below, the piecemeal reports issued as  
7 recently as July 26, 2010 do not demonstrate compliance, even assuming they were issued in a  
8 timely manner to allow for proper public notice and review.

9  
10 **The July 9, 2010 Supplemental Staff Report And The July 26, 2010 Revised Modeling**  
11 **Assessment Does Not "Cure" Or "Save" Anything But Simply Confirms That Adequate**  
12 **Review And/Or An Evidentiary Hearing Must Be Held On The New NO<sub>2</sub> Standard.**

13 Although claiming that the July 9, 2010 Supplemental Analysis does not "change staff's  
14 conclusions and recommendations ... issued on June 28, 2010," the Assessment discusses and  
15 attaches RCEC's July 6, 2010 "modeling analysis of operating period emissions to show  
16 compliance with the new federal 1-hour NO<sub>2</sub> standard." On the other hand, according to  
17 BAAQMD's July 16, 2010 email communication

18 . . . new 1-hour NO<sub>2</sub> standard . . . did not exist at the time the District  
19 issued the PSD permit for this project, which is why the analysis the  
20 District prepared for the permit did not address it. **The new standard**  
21 **was not intended to apply retroactively to permits that have already**  
22 **been finalized, and so the District is not intending to reopen the permit**  
23 **for further notice and comment.**

24 July 16, 2010 Email from BAAQMD Attorney Alexander Crockett to Attorney Lucas Williams of  
25 Golden Gate University Environmental Justice Clinic, emphasis added.

26 Initially, Chabot-Las Positas compliments the CEC Staff for requiring this examination,  
27 however, this matter needs to be continued to clarify several inconsistencies and inadequacies and  
28 to allow for a more rigorous honest discussion, hopefully to include the expertise of BAAQMD.

One of the greatest inadequacies of the analysis is that Staff's July 9, 2010 Report summarizes the

1 modeling results in ug/m<sup>3</sup>, micrograms per meter. However, for comparison purposes, the EPA  
2 published data base on ozone and its compliance is in parts per million. To add further confusion,  
3 the RCEC Modeling Reports discusses “monitoring data summary” in parts per billion or “ppb.”  
4 See table 2 of the July 26 Report referring to “first high” and July 9, 2010 Report, table 2 “98<sup>th</sup>  
5 percentile,” both referring to “NO<sub>2</sub>, ppb.” Compare EPA data base for ozone:

6 <http://iaspub.epa.gov/airsdata/adaqs.monvals?geotype=st&geocode=CA&geoinfo=st~CA~California&pol=O3&year=2007&fld=monid&fld=siteid&fld=address&fld=city&fld=county&fld=stabbr&fld=regn&rpp=25>  
7  
8

9 Staff and RCEC’s agents need to publish an analysis consistent with the same  
10 measurements published by the EPA so that the public may review the analysis without being  
11 trapped by mathematical conversion confusion.

12 To add to further confusion, and reinforcing the necessity to continue this matter to allow  
13 for the full 30 day public review, assuming the CEC Staff adopts this July 26, 2010 analysis in  
14 *toto*, just recently on July 26, 2010, posted was RCEC’s revised air modeling analysis replacing  
15 the report attached to the July 9, 2010 Staff analysis. In this regard, Chabot-Las Positas points out  
16 that it has not had an adequate opportunity to review or analyze this revised July 26, 2010 report.  
17 Minimally, so that the full 30 day review period is provided to the public, this needs to be  
18 continued to at least August 25, 2010 or later. In this regard, however, the revised report again  
19 fails to follow the same measurement for comparison purposes provided by the EPA. Again,  
20 Chabot-Las Positas requests that CEC Staff provide such an analysis.  
21

22 Chabot-Las Positas additionally brings to the Commission’s attention the following  
23 summary provided in the revised report released on July 26, 2010:

24 The OLM involves an initial comparison of the estimated maximum NO<sub>x</sub>  
25 concentration and the ambient ozone concentration to determine which is the  
26 limiting factor to NO<sub>2</sub> formation. **If the ozone concentration is greater than the  
27 maximum NO<sub>x</sub> concentration, total conversion is assumed.** If the NO<sub>x</sub>  
28 concentration is greater than the ozone concentration, the formation of NO<sub>2</sub> is  
limited by the ambient ozone concentration. In this case, the NO<sub>2</sub> concentration is  
set equal to the ozone concentration plus a correction factor that accounts for in-

1 stack and near-stack thermal conversion. **Ozone data from the San Leandro**  
2 **monitoring site for the same period as the meteorological data (2003-2007)**  
3 **were used for the OLM analyses. Missing ozone data for periods of 1 hour**  
4 **were interpolated from the San Leandro data before/after the missing period.**  
5 **Missing data for longer periods were replaced with data from Hayward**  
6 **monitoring site or, if both San Leandro and Hayward data were missing, from**  
7 **the Fremont monitoring site.**

8 (Emphasis added.) As reflected by the cited EPA link above, there is no “missing” ozone  
9 information. Based on Chabot-Las Positas’s limited opportunity for review, it appears that RCEC  
10 is simply “cherry picking” the best ozone results among the three stations in order to arrive at a  
11 lower number than which may be arrived at by utilizing the applicable available data.

12 According to the available EPA information available on its web page above, Hayward and  
13 Fremont have higher ozone levels than San Leandro and therefore a higher level of NO2. Further,  
14 both Hayward and Fremont are closer to the project, however, data from San Leandro is used  
15 instead of Hayward and Fremont. This needs to be corrected and re-circulated to the public.

16 **The Revisions To The Air Quality Requirements Are Sufficiently Substantial To Require A**  
17 **Vacating The June 2007 Final Determination Of Compliance.**

18 Since the EAB remand to BAAQMD, Chabot-Las Positas has made clear that vacating the  
19 June 2007 FDOC is required. However, absent from any of the staff analyses, despite Chabot-Las  
20 Positas’ multiple requests to CEC Counsel, is any discussion addressing these important issues.  
21 Chabot-Las Positas like the other persons and organizations impacted by this project request that  
22 Staff recommend that the June 2007 FDOC be vacated and revisited or thoroughly explain how a  
23 June 2007 FDOC remains current this August 2010 in light of the important advancements made  
24 and implementation of AB32.

25 In this regard, Staff needs to address the cumulative public health risk analysis which  
26 presently does not take into account higher startup and shutdown Toxic Air Contaminant (TAC)  
27 emissions for RCEC pert turbine: 9 hours daily starting up and 1 hour shutting down. This  
28 violates AB-2588 Hot Spots program, and thus as a matter of law may not support a finding of an

1 “insignificant risk to public health” Chabot-Las Positas refers you to Dr. Greenberg’s testimony  
2 in Eastshore who also discussed RCEC and that he did not include start-ups and shut-downs, the  
3 operating scenario of which is pending before the EAB:

4 R.T. Dec. 17, 2007 282: 13-21: Dr. Greenberg's testimony about testing for TAC  
5 emissions during startup conditions of both plants.

6 13 Q Just to follow up on the start-up. I  
7 14 just want to clarify. *You stated that you did not*  
8 **15 include the start-up emissions. And that would --**  
9 16 we had -- my question was earlier compact [compound]. That  
10 17 would **include Russell I would gather, right?**  
11 18 A *That is correct.*  
12 19 Q Okay. **As well as the proposed**  
13 **20 Eastshore project?**  
14 21 A **Correct.**

(Emphasis and italics added.)

15 Compare evidence submitted in Eastshore:

16 Ex 702, AB-2588 Appendix F, Criteria For Inputs for Risk Assessment Using  
17 Screening Air Dispersion Modeling, page 1, paragraph A: **The emissions must**  
18 **represent all listed substances emitted from the facility. Emission estimates must**  
19 **be health-protective** and approved by the district, and the assessment must take into  
20 account both the **highest actual emissions and the facility's potential to emit**,  
21 including use of the highest levels enforceable under the facility's permit(s), if the  
22 process(es) are subject to permits.

23 We bring to the Commission’s attention Chabot-Las Positas’s appeal to the EAB  
24 establishing that under the 9lb emission rate for PM2.5, the 24 hour NAAQS is violated.  
25 Although the revision before you seeks to decrease that emission rate to 7.5 lbs/hour, which may  
26 be admirable for BACT purposes, as reflected in BAAQMD’s February 2010 Response to  
27 Comments, the vendor guarantees for these turbines are 9lbs/hour and power plant owners and  
28 operators contacted BAAQMD asserting that the 7.5 lbs/hour rate simply is not achievable. As a  
result, based on the BAAQMD record, the FDOC must be vacated.

1 The following analysis contained in the Final Staff Assessment likewise needs to be  
2 revisited and harmonized with the present staff analysis, which is applicable to the NOx  
3 discussion:

4 RCEC FSA, p 4.1-6, Air Quality Table 2 notes: "**Daily emissions include 2 start-ups**  
5 (480 pounds NOx per cold start-up, 240 pounds NOx per hot start-up), **2 shut downs**  
6 (80 pounds of NOx per each), and approximate 14 hours (16.17 pounds NOx/hr) of normal  
7 operation for the turbine/HRSG and duct firing."

8 RCEC FSA, p4.1-68, Staff Estimates: "1. Facility's operational profile  
9 According to the project owner, each turbine can go through one cold, one hot, two  
10 shut down events, and the rest are normal operation. Thus **for every 24 hour period,**  
11 **each turbine can experience 9 hours of start up (6 hours for cold and 3 hours for**  
12 **hot) and 1 hour of shut down (0.5 hour each).** The normal hours of operation would  
13 be 14 hours. On the annual basis, each turbine can go through **52 cold, 260 hot start-**  
14 **ups and 312 shutdown.** Thus each year, the start up and shut down hours for each  
15 turbine are: = 52(6hr) + 260(3hr) + 312(0.5hr) = 1,248 hours

16 (Emphasis and italics added.)

17 To say the least, these Staff Reports must be updated and harmonized with the BAAQMD  
18 requirements as the numbers vary dramatically. In this regard, one of the issues pending before  
19 the EAB is the confusing and unclear operating scenario proposed by BAAQMD. The record  
20 above simply confirms the necessity to address this issue in light of the new applicable federal  
21 guidelines for NO2.

22 **The Hearing Should Be Continued To Allow Staff To Adequately Address Whether The**  
23 **Project As A Whole Will Remain In Compliance With Applicable Laws, Ordinances,**  
24 **Regulations And Standards In Light Of The Events And Circumstances Taking Place Since**  
25 **The First Amendment And To Allow For An Evidentiary Hearing.**

26 Under section 25216.5 of the Public Resource Code, this Commission has an obligation to  
27 "[p]rescribe the form and content of applications for facilities; conduct public hearings and take  
28 other actions to *secure adequate evaluation* of application." (Emphasis and italics added.) As  
reflected above, in addition to the public not receiving adequate time for review, an adequate  
evaluation of this amendment has not been accomplished.

1           Additionally, in light of the changed circumstances, such as the Chabot campus's  
2 designation as an HSI educational institution, the environmental justice analysis must be revisited.  
3 As set forth in both Chabot-Las Positas's comments and appeal, the 2009 air modeling for PM2.5  
4 revealed that the Chabot campus is located where the concentration levels for PM2.5 exceed the  
5 significantly impact levels. Again, this adds further support for vacating the June 2007 FDOC.

6           Likewise, despite correspondence from HASPA asking that the CEC examine the rising  
7 tide levels, which will impact this project, HASPA's request is completely ignored. However,  
8 such rising tide levels will impact shoreline species and habitat protected by the Federal  
9 Endangered Species Act of 1973 9 (*see*: 16 U.S.C. § 1531 et seq., and 50 C.F.R. part 17.1 et seq.)  
10 and Migratory Bird Treaty Act (16 U.S.C. § § 703 – 712) as well as State Endangered Species  
11 Act of 1984. (Also see 14 C.F.R. §§ 670.2 and 670.5[animals of California].)

12           Lastly, this is to also point out that the analysis of *Avenal* Energy Project (CEC 2009d) as  
13 summarized in Staff's June 28, 2010 Report does not eliminate Chabot-Las Positas statutory  
14 entitlement and the public's right to contest that a facility is "required for public convenience and  
15 necessity" and contest that "there are not more prudent and feasible means of achieving that public  
16 convenience and necessity." (Public Resource Code, sec. 25525.) As this Commission's own  
17 documents and research reveals, RCEC is not needed and it is time for the Commission to revisit  
18 this important issue.  
19  
20

21           As for the FDOC which needs to be vacated and revisited, Chabot-Las Positas requests that  
22 the CEC examine the background levels of toxic air contaminants (TACs) regulated by the AB  
23 2588 "Hot Spots" program at the project's points of maximum impact, the hazard index for each  
24 TAC due to background levels, and the relative increase of each TAC over the background levels  
25 as a result of the project.

26           The testimony of CEC staff in *Eastshore* during cross-examination admits that generally  
27 Staff does not include background TAC, such as those contributed by the nearby 880 and 92  
28

1 highways and interchange. (The First Amendment Proceedings for RCEC did not benefit from the  
2 same rigorous examination as was revealed in *Eastshore*.) Chabot-Las Positas refers the  
3 Commission to the December 17, 2007 testimony of CEC Staff Dr. Greenberg at pages 273: 17-  
4 274: 15 in *Eastshore*:

5 17 Q Following up on if you could -- Well  
6 18 **how do you account then for the background of the**  
7 19 **local toxic air contaminant levels then in your**  
8 20 **health risk assessment also?**  
9 21 *A We don't*, and I'll explain why. The  
10 22 reason **we don't account for background cancer**  
11 23 **risks** is because, once again, the methodology  
12 24 requires us to look at the incremental  
13 25 contribution of this particular project. Very

14 1 much the same as if it were a hazardous waste site  
15 2 and one was looking at what the incremental  
16 3 contribution caused by hazardous waste might be.  
17 4 ***The reason for that is because the***  
18 5 ***background cancer risk in the Bay Area is already***  
19 6 ***above the level of significance.*** As I stated in  
20 7 my Final Staff Assessment it is around 165 in a  
21 8 million. **If we were to add background basically**  
22 9 **you couldn't build anything**, you couldn't drive  
23 10 your automobile, you couldn't take the bus because  
24 11 they all emit toxic air contaminants and  
25 12 everything would come to a standstill. **What we**  
26 13 **are looking at for CEQA purposes is the**  
27 14 **incremental increase in cancer and is that below a**  
28 15 **level of significance.**

20 Dec. 17, 2007 274:16-25, recross of Dr. Greenberg:

21 16 Now when it comes to non-cancer health  
22 17 risk we would consider the non-cancer hazard index  
23 18 and background **if the Air District said, you know,**  
24 19 **this hazard index is very close to one, we'd like**  
25 20 **you to add in background.** [*Eastshore*] is not close to one,  
26 21 it is -- excuse me while I get the precise number  
27 22 out. It is .32, as I calculated it. And the Air  
28 23 District has not asked me to look at background.  
24 24 So that is the reason why background wasn't  
25 25 included.

27 Dec. 17, 2007 R.T. 276 : 1-11, recross of Dr. Greenberg:

1 Q But then you also have the background  
2 in addition to the project. And what if the  
3 background was close to one?  
4 A **I don't know what the background is for**  
5 **5 non-cancer health effects in the immediate area.**  
6 **6 I would know what it would be in the Bay Area in**  
7 **7 general and that's what I would look at.** But no,  
8 I would not add the background unless the project  
9 as defined had an incremental non-cancer hazard  
10 index close to 1.0 or if the Air District asked me  
11 to do so.

8 Given the developments since the first amendment, and the revelation of the various issues  
9 impacting air quality, such as the modeling for PM2.5 revealing a violation of the NAAQS at the  
10 achievable emission rate of 9 lbs, Chabot-Las Positas submits that it is time for the CEC to add in  
11 the background to determine this project's health impacts on this environmental justice  
12 community by requiring an evidentiary hearing on these important matters.

### 13 Request For Administrative Notice

14 Chabot-Las Positas Community College District requests administrative notice of the CEC  
15 proceedings for the Application for *Eastshore Energy Power Project* (06- AFC- 06) and  
16 the pending administrative proceedings before BAAQMD –EAB cited above. Additionally,  
17 Chabot-Las Positas requests the following documents submitted to counsel for both BAAQMD  
18 and/or this Commission be administratively noticed:  
19

20 Email to CEC Attorney Bell copying BAAQMD attorney Crocket attaching Chabot-Las  
21 Positas's August 20, 2009 email to CEC Counsel Chamberlain and June 10 and July 27,  
22 2009 emails and letter to Richard Ratliff asking for procedural guidance on addressing  
23 vacating the June 2007 Final Determination of Compliance under State law and admission  
24 by BAAQMD that RCEC never had a PSD permit in the first place.

25 Attachment to above email: June 10, 2009 letter to CEC attorney Ratliff re “vacating the  
26 June 19, 2007 Final Determination of Compliance for RCEC to BAAQMD application no.  
27 15487 and CEC Docket No. 01-AFC-7C

28 Attachment to above email: November 12, 2009, letter to BAAQMD Engineer Lee Setting  
Forth Chabot-Las Positas Initial Comments In Opposition to RCEC's Request for Renewal  
or Extension of Authority to Construct seeking proper environmental review under  
California Environmental Quality Act.

1 The following documents docketed in this proceeding:

2 no. 54656:

3 01 / 29 / 2010 and 12/24/2009 letters from Chair C. Severin of the Hayward Area  
4 Shoreline Planning Agency HASPA Comments Regarding Petition for Amendment

5 no. 48089

6 09 / 19 / 2008 Group Petitioners Objections To Staff Counsel's July 17 Letter And July 24,  
7 2008 Recommendation To Grant RCEC's Deficient And Barred Petition To Extend  
8 Construction Deadline A Second Time Without A Required Evidentiary Hearing

9 and Group Objectors Objections To Petition To Extend Construction Deadline For RCEC  
10 Project; And Group Objectors Demand For Evidentiary Hearing

11 No. 48086

12 09 / 19 / 2008 US Department of Transportation / R. Durbarry  
13 Communicating with the City of Hayward to provide comments RE the proposed  
14 Eastshore Energy Center that would be located one mile from Hayward Executive Airport

15 No. 48085

16 09 / 19 / 2008 California Pilots Association / A. Richards  
17 Re: Application for extension of time to construct Russell City Energy Center

18 No. 47314

19 07 / 29 / 2008 County of Alameda's Objection to Staff's Recommendation to Approve  
20 Petition for Extension of Deadline for Commencement of Construction for the Russell City  
21 Energy Center

22 No 47313

23 07 / 29 / 2008 A. Richards Comments Regarding the Application for Extension of Time to  
24 Construct Russell City Energy Center

25 No 47300

26 07 / 21 / 2008 Chabot-Las Positas Community College District Intervenors' Comments on  
27 Applicant's Motion to Reopen the Evidentiary Record and Notice of Joinder to County of  
28 Alameda's Opposition

No 46952

07 / 08 / 2008 Comments of Robert Sarvey RE Extension Request

Your docket log 46888

07 / 01 / 2008 California Native Plant Society / L. Baker, L. Naumovich  
Corrected Letter from California Native Plant Society RE: Application for Extension

No 46865

07 / 01 / 2008 Chabot-Las Positas Community College District's Written Comments &  
Objections RE Petition to Extend Construction Deadline

No. 46853

1 06 / 30 / 2008 County of Alameda's Comments on RCEC LLC's Petition for Extension of  
2 Deadline for Commencement of Construction

3 No. 46852  
4 06 / 30 / 2008 R. Simpson Comments on Applicant's Petition for Extension of Deadline

5 No. 46849  
6 06 / 30 / 2008 Letter from the Aircraft Owners & Pilots Association regarding the RCEC  
7 Request for Extension of Construction Start Date

8 No.46867  
9 06 / 27 / 2008 Santa Clara Audubon Society: Comment Letter Regarding Calpine Corp's  
10 Extension Request

11 Nos. 47146  
12 06 / 24 / 2008 Audubon California / M. Perlmutter Letter from Audubon California  
13 and  
14 46803  
15 06 / 24 / 2008 Audubon California comment letter RE biological impacts

16 No. 46794  
17 06 / 23 / 2008 Letter from National Audubon Society RE: Delays

18 No. 46796  
19 06 / 16 / 2008 Letter from EBCNPS: Request for notification of regulatory proceedings  
20 with the CEC

21 No. 43099  
22 10 / 26 / 2007 Chabot-Las Positas Community College District's Petition to Re-Open the  
23 Administrative Proceedings; To Re-Open the Evidentiary Record; For Reconsideration of  
24 Energy Commission Decision; and For Stay of Final Decision

25 No. 43098  
26 10 / 26 / 2007 Petition by Chabot-Las Positas Community College District for Intervention  
27 as an Agency

28 No. 43083  
10 / 26 / 2007 Declaration of Chancellor Joel L. Kinnamon in Support of Intervenor  
Chabot-Las Positas Community College Districts Motion to Intervene and Consideration  
and Stay

No. 43055  
10 / 22 / 2007 Declaration of Gary Cathey in support of Group Petitioners' Petition to  
Intervene and  
no. 43044  
10 / 22 / 2007 Declaration of G. Cathey in Support of Group Petitioners' Petition to  
Intervene, Reopen the Administrative Proceedings, Reopen the Evidentiary Record and for  
Reconsideration

1 Dated: August 9, 2010

Respectfully Submitted,

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Jewell J. Hargleroad, Attorney for  
Chabot-Las Positas Community College District

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