State Of California | The Resources Agency of California

Memorandum

Date : February 27, 2007
Telephone: (916) 654-4228

DOCKET
01-AFC-7C
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To : John L. Geesman, Presiding Member
Jeffrey D. Bryon, Associate Member

From : California Energy Commission - Ms. Jeri Zene Scott, Compliance Project Manager
1516 Ninth Street
Sacramento, CA 95814-5512

Subject : **RUSSELL CITY ENERGY CENTER (01-AFC-7C) STATUS REPORT #1**

The Staff Assessment (SA) was not filed on February 20, 2007, because of unresolved issues in the following technical areas which are discussed below: Air Quality, Land Use, Traffic and Transportation, and Waste Management. Because many technical areas have no issues and are ready for publication, staff is proposing, with the Committee's concurrence, to bifurcate the SA. We would publish Part I of the SA on March 30, 2007, and Part II on July 1, 2007, 30 days following receipt of the Final Determination of Compliance (FDOC). Staff's proposed changes to the Committee schedule for this amendment are included as the last page of this Status Report.

The breakdown of technical areas with and without issues is shown in the table below. Part I of the SA would include all sections with no issues. Part II would include sections for the four technical areas that presently have issues.

Issues	Subject Area	Issues	Subject Area
Yes	**Air Quality**	No	Paleontological Resources
No	Biological Resources	No	Public Health
No	Cultural Resources	No	Socioeconomics
No	Efficiency and Reliability	No	Soils
No	Facility Design	**Yes**	**Traffic and Transportation**
No	Geology	No	Transmission Line Safety
No	Hazardous Materials	No	Transmission System Engineering
No	Industrial Safety and Fire Protection	No	Visual Resources
Yes	**Land Use**	**Yes**	**Waste**
No	Noise and Vibration	No	Water Resources

Air Quality

- The Bay Area Air Quality Management District (BAAQMD) will not revise the FDOC for the Russell City Energy Center Project (RCEC) as previously expected. They will be issuing a new Preliminary Determination of Compliance (PDOC) and FDOC. Per Air Quality (AQ) staff's conversations with BAAQMD, the PDOC will be submitted for a 45-day comment period on April 2, 2007, while the FDOC will be submitted on June 1, 2007. The BAAQMD will require 60 days to accommodate the Environmental Protection Agency (EPA) and public comments. Upon receipt of the FDOC, AQ staff

will incorporate the FDOC conditions into our conditions of certification . The AQ staff is not aware of any outstanding issues at this time.

Land Use

- The Alameda Airport Land Use Commission (AALUC) has not made a determination regarding the compatibility of the new proposed location for the RCEC facility with airport land use plans. The AALUC is waiting to review the Federal Aviation Administration's (FAA) response to the Notice of Proposed Construction (FAA Form 7460-1).
- The proposed new RCEC location is approximately 1.5 miles from the Hayward Executive Airport and would be within the Airport Approach Zoning Plan boundaries. These boundaries extend approximately two (2) miles out from the airport landing area. The project's thermal plumes would introduce the potential for impacts to aviation safety and the safe maneuvering of aircraft within this area. There can not be anything in the Airport Approach Zone that would create a hazard to navigation per the Hayward Municipal Code (HMC) §10-6.35, "...no use may be made of land within any airport approach zone, airport turning zone, or airport transition zone in such a manner as to...endanger the landing, take off, or maneuvering of aircraft."
- The proposed new RCEC site, once consolidated under the City of Hayward's jurisdiction, would have a General Plan land use designation of Industrial Corridor and be zoned Industrial. Power plants are not specifically identified as a permitted or conditional use within an Industrial zone (HMC §10-1.16).
- Although the original project location had the same land use and zoning designations as the proposed new location, the General Plan was revised in 2002 and places a different emphasis on development within the Industrial Corridor area where the project is now proposed to be sited. As part of the original certification process, the issue was brought before the Hayward City Council, who adopted a resolution (Res. 01-104) declaring the power plant use at 3636 Enterprise Avenue to be consistent with the Zoning Ordinance and existing General Plan. However, the resolution is site-specific and does not automatically apply to the proposed new location. The Hayward City Council would be required to issue the project owner an amended or new resolution for RCEC which has not occurred.
- Cumulative traffic impacts may require relocation of offsite parking for workers during construction, but no alternative sites have been identified by the project owner.

Traffic and Transportation

- The proposed new RCEC location can be accessed via Interstate 880 (I-880) and State Route 92 (SR-92) and local roads such as Industrial Boulevard, Clawiter Road, Depot Road, and Cabot Road. The California Department of Transportation (Caltrans) is planning to initiate a project to reconstruct the I-880/SR-92 Interchange, beginning in Spring or Summer 2007 and continuing for up to four years. The Caltrans project would seriously impact traffic flow and access routes to the proposed relocation, especially during the peak construction phase of the project. The project owner did not discuss the Caltrans project in the Amendment submitted on November 17, 2006. When this

information was discovered by staff, additional data requests were submitted on February 5, 2007. Data responses are due March 5, 2007.

- The power plant would emit visible and thermal plumes that could impact low-flying airplanes and helicopters that use the airport. This would violate Section 10-6.35 of the Approach Zone regulations previously cited under Land Use. Staff is preparing a data request for submittal to the project owner on March 2, 2007
- The project owner is in the process of filing a Form 7460-1 with FAA as recommended by the Hayward Airport Acting Manager, the AALUC, and the FAA. An aviation safety report entitled "Safety Risk Analysis of Aircraft Over flight of Industrial Exhaust Plumes" was completed in January 2006 and is currently under review by the FAA Aviation Safety staff. In that document, it is recommended that instructions for FAA Form 7460-1 be amended to require a thorough explanation of the nature of any exhaust plume discharge. Staff will review the Form 7460-1 before the project owner submits it to the FAA.
- The FAA will analyze the visible and thermal plumes effect on aircraft. According to FAA it could take 60 to 90 days to process the Form 7460-1, therefore staff will write a letter to the FAA requesting a expeditious review of RCEC's Form 7460-1.

Waste Management

- The Phase I and II Environmental Site Assessments (ESA) indicate varying levels of contamination on each of the four parcels at the new location. The contaminants include Total Petroleum Hydrocarbons (diesel and motor oil), volatile organic compounds (VOCs), metals, pesticides, and Polychlorinated Biphenyls (PCBs). Staff has determined that the site would require either a Remedial Action Plan (RAP), or a Cleanup Plan.
- Department of Toxic Substance Control's (DTSC) staff reviewed the amendment submittal and made numerous comments on the parcels for the proposed new location. DTSC provided Commission staff and the project owner with a draft copy of their comments. The project owner is in the process of responding to DTSC's comments. DTSC staff also believes that the project will require a RAP or a Cleanup Plan.
- Both the Energy Commission and DTSC recognize that there are deficiencies in the description of the potential level of contamination on the parcels for the proposed new location. Once the project owner updates and addresses the data gaps in the Phase I and II (ESAs) staff can determine which plan will be required to eliminate environmental impacts.
- Staff is working with the Water Quality Control Board (Water Board) and DTSC to understand which agency will be the administering agency; neither agency has committed thus far.
- Staff has scheduled a conference call between all affected agencies to determine who will be the administering agency and to work on the language for Waste Management conditions of certification.

Energy Commission Staff's Proposed Schedule for the Russell City Energy Center (01-AFC-7C)
Major Amendment

Activity	Day	Date
Petition filed by project owner	0	Nov 17, 06
Committee assigned to oversee petition process	0	Nov 17, 06
Staff files Issues Identification Report	24	Dec 11, 06
Committee holds information hearing and site visit	28	Dec 15, 06
Staff files data requests	33	Dec 20, 06
Project owner provides data responses	59	Jan 15, 07
Local, state, and federal agency preliminary determinations and comments	61	Jan 17, 07
Staff data response workshop	66	Jan 22, 07
Staff files second round of data requests	**104**	**Mar 02 07**
Staff Assessment Part I filed	**132**	**Mar 30, 07**
Project owner provides data responses	**135**	**Apr 02, 07**
Staff Issue Resolution, Data Response and SA Workshop	**142**	**Apr 09, 07**
Agency comment on Assessment	**163**	**Apr 30, 07**
Staff Assessment Part II filed	**224**	**Jul 02, 07**
Staff Assessment Workshop	**238**	**Jul 16, 07**
Agency comments on Assessment	**252**	**Aug 02, 07**
Errata filed	**273**	**Aug 23, 07**
Prehearing Conference	**TBD**	
Evidentiary hearing	**TBD**	
Committee files PMPD	**TBD**	
Committee conference on the PMPD	**TBD**	
Revised PMPD* for 14 day comment period*	**TBD**	
Commission decision	**TBD**	

Bold = Staff's changes
TBD = to be determined
* if necessary

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA

Amendment to the APPLICATION FOR CERTIFICATION OF THE RUSSELL ENERGY CENTER POWER PLANT PROJECT	**Docket No. 01-AFC-7C PROOF OF SERVICE (Revised 12/13/06)**

INSTRUCTIONS: All parties shall 1) send an original signed document plus 12 copies OR 2) mail one original signed copy AND e-mail the document to the web address below, AND 3) all parties shall also send a printed OR electronic copy of the documents that shall include a proof of service declaration to each of the individuals on the proof of service:

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DECLARATION OF SERVICE

I, Marci Errecart, declare that on February 28, 2007, I deposited copies of the attached February 27, 2007 Russel City Energy Center (01-AFC-7C) Status Report #1 in the Uniited States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Marci A. Errecart

[signature]