

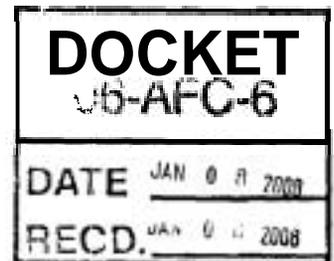
**From:** Jewell Hargleroad <jewellhargleroad@mac.com>  
**To:** Susan Geffer <Sgeffer@energy.state.ca.us>, "County Counsel Massey Andrew...  
**CC:** Docket Optical System <Docket@energy.state.ca.us>, <docket@energy.state....  
**Date:** 1/8/2008 11:11 AM  
**Subject:** Eastshore Exhibit List, Docket 06-AFC-6  
**Attachments:** CEC Eastshore Cathey Field Notes for Sutter Powerplant Overflight-2.pdf; GC RCEC Declaration001.pdf; CEC Eastshore GC RCEC Declaration002.pdf; CEC Eastshore GC RCEC Declaration003.pdf; CEC Eastshore GC RCEC Declaration004.pdf

Exhibits 728 and 729

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5 Pilots Association; Citizens for Alternative  
Transportation Systems, San Lorenzo Homeowners  
6 Association, Skywest Townhouse Homeowners Association  
and Hayward Democratic Club  
7

8 STATE OF CALIFORNIA

9 STATE ENERGY RESOURCES

10 Conservation and Development Commission

11 In the Matter of:

Docket No.: 01-AFC-7C

12 Initially noticed as "Petition to Amend the  
13 Commission Decision Approving the Application  
for Certification for the Russell City Energy  
14 Center";

DECLARATION OF GARY CATHEY IN  
SUPPORT OF GROUP PETITIONERS'  
PETITION TO INTERVENE, REOPEN THE  
ADMINISTRATIVE PROCEEDINGS,  
REOPEN THE EVIDENTIARY RECORD  
AND FOR RECONSIDERATION

15 Later Noticed as "Modification of the Application  
16 for Certification for the Russell City Energy  
Center"  
17

Date: TBD  
Location.: TBD  
Time: TBD

1 I, Gary Cathey, hereby declare:

2 1. I am the Chief of the Office of Airports for the California Department of  
3 Transportation's Division of Aeronautics located in Sacramento. I attended and spoke at the  
4 hearing by the California Energy Commission (CEC) on September 26, 2007 in Sacramento,  
5 California, on the project known as the Russell City Energy Center (RCEC), a 600-megawatt  
6 thermal power plant. I am an instrument rated commercial pilot, have flown over 1,500 hours and  
7 have flown professionally for the Department for more than 12 years. I have personal knowledge  
8 of the facts set forth below and if called as a witness in this matter, would and could testify  
9 competently to the following.  
10

11 2. During in the Fall of 2003 I was contacted by Eileen Allen, CEC Manager for the Energy  
12 Facilities Licensing Program to investigate allegations brought to the attention of the CEC.  
13 Numerous pilots had complained about turbulence they experienced from overflying the exhaust  
14 plume generated by the Blythe power plant, located near the Blythe Airport. On December 18,  
15 2007, at the request of the CEC, I and CEC staff member Ms. Allen flew a 4-seat Bonanza F-33  
16 aircraft over the Sutter Power Plant in Yuba County to investigate these complaints. Based on the  
17 information available to me, the Sutter Power Plant is a 520-megawatt power plant, smaller than  
18 the proposed RCEC plant.  
19

20 3. During this flight, field notes were taken. These reflect that I began at 3,000 feet Above  
21 Mean Sea Level (AMSL) and descended in five hundred foot increments to 1000 feet AMSL.  
22 Afterwards, I had planned to continue descending in 200-foot increments. However, by the time I  
23 reached 1,000 feet AMSL, the turbulence was so great and disturbing that it affected  
24 maneuverability and control over the aircraft. I concluded in-flight that further decent below this  
25 altitude would negatively impact the safety of the flight. I believe I may have wrote a letter to  
26 document these observations to the CEC concerning this investigation conducted at their request,  
27 however, to date I have been unable to locate it.  
28

1           4. In response to the application for the RCEC project, on July 18, 2007 I prepared a letter on  
2 behalf of my Department agreeing with the CEC's recommendations that locating this plant near  
3 the Hayward Airport would present safety issues for low-level flights at the air traffic pattern  
4 altitude of 650 feet AMSL (650 Above Ground Level) for the Hayward Municipal Airport. The  
5 assessment by the CEC staff on page 4.10-9 of their report which I was provided also confirmed  
6 that "an exhaust plume with a vertical velocity in excess of 4.3 meters per second (m/s)," or  
7 \_\_\_\_\_ mph per second, "may cause damage to an aircraft airframe or upset an aircraft when flying  
8 at low levels." Attached is a true and correct copy of my July 18, 2007 letter to Jim Adams of the  
9 Environmental Office of the CEC.  
10

11           5. Despite the CEC staff's recommendation against the RCEC project as reflected in their  
12 2007 reports, the Commission continued to entertain the application. Therefore, I attended the  
13 Alameda County Airport Land Use Commission hearing held on August 15, 2007 and offered my  
14 opinion concerning the dangers of flying through thermal plumes at low altitudes. One of the  
15 Commissioners asked what size of power plant was involved in the flyover for the CEC and the  
16 representatives of RCEC asserted that the Sutter plant was the "same" size. As reflected by CEC  
17 documents, the Sutter power plant is smaller.  
18

19           6. I also attended the CEC hearing on September 26, 2007 and spoke after the FAA  
20 representative who explained the differences between their October 18, 2007 letter recommending  
21 against this project as a safety hazard to pilots utilizing the Hayward Airport, potentially requiring  
22 the FAA to close the two primary runways, and the FAA's revised opinion dated September 25,  
23 2007. This letter recommended posting a "NOTAM" or Notice to Airmen warning pilots not to  
24 overfly the airspace above the proposed location of the power plant as a means to mitigate it's  
25 establishment. Although the evidentiary record was reopened to accept the FAA testimony, it was  
26 closed prior to the time for me to speak. Therefore, I do not believe my opinion was offered or  
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considered as evidence. At the conclusion of the hearing, the Commission voted to approve the project.

7. Since then, I understand that the Alameda County Airport Land Use Commission met and reviewed the second power plant proposed near the Hayward Airport, a 115-megawatt power plant. Based on my information, the County Commission struck the proposed "mitigations" on the basis that a "NOTAM" was not a satisfactory mitigation for the airport's loss of airspace. I agree.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed October 22, 2007 in Sacramento, California.

  
GARY CATHEY