

## DOCKETED

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| <b>Docket Number:</b>   | 01-AFC-07C   |
| <b>Project Title:</b>   | 01-AFC-7C Russell City Energy Company  |
| <b>TN #:</b>            | 211539   |
| <b>Document Title:</b>  | Order Approving Petition to Amend the Visual Resources Conditions of Certification |
| <b>Description:</b>     | N/A  |
| <b>Filer:</b>           | Cody Goldthrite  |
| <b>Organization:</b>    | California Energy Commission   |
| <b>Submitter Role:</b>  | Commission Staff   |
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| <b>Docketed Date:</b>   | 5/18/2016  |

STATE OF CALIFORNIA

STATE ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of: ) Docket No. 01-AFC-07C  
RUSSELL CITY ENERGY CENTER )  
RUSSELL CITY ENERGY ) ORDER APPROVING  
CENTER, LLC ) Petition to Amend the Visual Resources  
Conditions of Certification.  
)

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On June 1, 2015 Energy Commission staff docketed a petition on behalf of Russell City Energy Center LLC requesting to amend the Final Decision for the Russell City Energy Center (RCEC). The petition requests to revise Visual Resources condition of certification **VIS-10** in order to approve a revised offsite visual enhancement plan.

**STAFF RECOMMENDATION**

Energy Commission staff reviewed RCEC's petition and finds that it complies with the requirements of Title 20, Section 1769(a) of the California Code of Regulations and recommends approval of their request for amendment. Staff also recommends the modification of Visual Resources condition of certification **VIS-10**.

**ENERGY COMMISSION FINDINGS**

Based on staff's analysis, the Energy Commission concludes that the proposed changes will not result in any significant impact to public health and safety, or the environment. The Energy Commission finds that:

- The proposed modification(s) would not change the findings in the Energy Commission's Amended Final Decision issued on October 3, 2007;
- There would be no new or additional unmitigated, significant environmental impacts associated with the proposed modification(s);
- The facility would remain in compliance with all applicable laws, ordinances, regulations, and standards with the modifications to the conditions set forth below;

- The proposed modification(s) would be beneficial to the public, and/or the applicant, because the proposed modifications would reduce the visual contrast and dominance of the RCEC in the project area;
- The proposed modification(s) are justified because there has been a substantial change in circumstances since the Energy Commission certification, in that the original offsite visual enhancement plan is no longer feasible to be implemented by the project owner.

## CONCLUSION AND ORDER

The California Energy Commission hereby adopts staff's recommendation and approves the following changes to the Commission Decision for the Russell City Energy Center's Condition of Certification **VIS-10**.

## CONDITIONS OF CERTIFICATION

New language is shown as **bold and underlined**, and deleted language is shown in ~~strikeout~~.

**VIS-10 The project owner shall take all feasible steps to implement a color treatment and landscape concept plan (plan) that includes five (5) existing offsite buildings (warehouses) along the eastern edge of the Hayward Regional Shoreline that have publicly visible exterior walls that face or nearly face the Hayward Shoreline Interpretive Center - Key Observation Point (KOP) 2.**

**The plan is to include the following pertaining to the painting of the selected exterior warehouse walls.**

- a) **Exterior walls shall be painted in muted colors, and finishes shall not create excessive reflectivity. Colors shall be selected in consultation with the building owners, city of Hayward staff, and the Compliance Project Manager (CPM).**
- b) **Offsite building owners who had exterior walls painted shall be provided a maximum of five (5) gallons of paint for the future maintenance and up-keep of the walls. Future maintenance and up-keep of the painted walls will not be the responsibility of the project owner.**

**The plan is to include the following pertaining to the planting of trees on the city-owned property.**

- c) **Maintenance procedures, including routine annual or semi-annual debris removal, replacement of unsuccessful plantings, and any necessary irrigation, for the life of the project.**

**Verification: The project owner shall report in the Annual Compliance Report (ACR) the status of the paint on the offsite warehouse exterior walls and the tree planting on the city-owned property. The ACR shall include a**

**current color photograph(s) from KOP 2 showing the painted exterior walls of the five warehouses, and a current close-up color photograph(s) of the trees on the city-owned property.**

**VIS-10** Prior to the start of construction, the project owner shall prepare and implement an approved off-site landscaping plan. Consistent with Measure 3 of the Visual Mitigation Plan, the project owner shall install 204 trees along the west side of the warehouse and industrial park complexes that line the eastern edge of the shoreline wetlands. The extent of the landscaping area, as shown in Visual Resources Figure 14 shall be expanded to include the berm from Breakwater Avenue north to Johnson Road. Trees shall be planted close together to create a dense screen. Trees planted along the edge of the Whitesell Business Park parking lot shall be pruned up as they grow to allow westward views from the parking lot to the shoreline open space. Trees planted close to the walls of the warehouses shall be allowed to take on a bush-like form to maximize their screening potential. All tree species shall be fast growing and evergreen and shall be 24" box size when planted. The project owner shall provide an appropriate level of irrigation and fertilization to ensure optimal tree growth, health, and appearance.

Protocol: Prior to start of construction, the project owner shall submit an offsite landscape plan to the City of Hayward and the U.S. Fish and Wildlife Service, if applicable, for review and comment, and to the CPM for review and approval. The submittal to the CPM shall include the City's comments. The plan shall include, but not be limited to:

- 1) A detailed landscape, grading, and irrigation plan, at a reasonable scale, which includes a list of proposed tree and shrub species and installation sizes, and a discussion of the suitability of the plants for the site conditions and mitigation objectives.
- 2) An installation schedule. The project owner shall not implement the landscape plan until the project owner receives approval of the plan from the CPM. The planting must be completed by the start of commercial operation, and the planting must occur during the optimal planting season.
- 3) Maintenance procedures, including any needed irrigation and a plan for routine annual or semi-annual debris removal for the life of the project; and
- 4) A procedure for monitoring for and replacement of unsuccessful plantings for the life of the project. The project owner shall not implement the plan until the project owner receives approval of the plan from the CPM.

**Verification:** At least 90 days prior to start of construction, the project owner shall submit the offsite landscape plan to the CPM for review and approval.

If the CPM notifies the project owner that revisions of the submittal are needed before the CPM would approve the submittal, within 30 days of receiving that notification, the project owner shall prepare and submit to the CPM a revised submittal.

~~The project owner shall notify the CPM within seven days after completing installation of the landscape screening that the planting and irrigation system are ready for inspection. The project owner shall report landscape maintenance activities, including replacement of dead vegetation, for the previous year of operation in the Annual Compliance Report.~~

**IT IS SO ORDERED.**

### **CERTIFICATION**

The undersigned Secretariat to the Commission does hereby certify that the foregoing is a full, true, and correct copy of an Order duly and regularly adopted at a meeting of the California Energy Commission held on May 17, 2016.

AYE: Weisenmiller, Douglas, McAllister, Scott

NAY: None

ABSENT: Hochschild

ABSTAIN: None

*Original Signed by*

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Cody Goldthrite  
Secretariat