

DOCKETED

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CEC Staff Meeting With CalPilots Aug. 9, 2013 at 1 p.m.

Additional submitted attachment is included below.

Subject: FW: CEC Staff Meeting With CalPilots Aug. 9, 2013 at 1 p.m.
Attachments: ChartingNotice_TCP_12-09.pdf; Exh A to CLPCCD RJN Caltrans 1-4-12Doc-137.pdf; CLPCCD ExhA1 Supp RJN Caltrans 1-16-12Doc-144.pdf; CEC 11-07-07 Order Denying Intervene and Reconsideration, Etc.pdf

Importance: High

From: Jewell Hargleroad [<mailto:jewellhargleroad@mac.com>]
Sent: Tuesday, October 08, 2013 6:28 PM
To: Energy - Docket Optical System
Cc: Andy Wilson; Carol Ford; Knight, Eric@Energy; Johnson, Roger@Energy
Subject: Fwd: CEC Staff Meeting With CalPilots Aug. 9, 2013 at 1 p.m.
Importance: High

As reflected in my prior email to Roger Johnson, please post the below communication directed to Roger on behalf of the California Pilots Association.

Thank you for your attention in this matter.

Jewell J. Hargleroad, Esq.
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Begin forwarded message:

From: Jewell Hargleroad <jewellhargleroad@me.com>
Subject: CEC Staff Meeting With CalPilots Aug. 9, 2013 at 1 p.m.
Date: August 15, 2013 3:01:08 PM PDT
To: Roger.Johnson @energy.state.ca.us, cmarxen @energy.state.ca.us
Cc: Carol Ford <carol_ford@sbcglobal.net>, Andy Wilson <andy.wilson@calpilots.org>, Jeff Brown <jeff_brown@dot.ca.gov>, eknight@energy.state.ca.us, "Bruce@Energy Boyer" <Bruce.Boyer@energy.ca.gov>, john.speckin@faa.gov

Dear Roger and Chris:

On behalf of California Pilots Association, thank you for taking the time to meet with us on August 9, 2013. In addition to us, your staff members Eric Knight and Bruce Boyer also joined us, as well as Jeff Brown, Chief Senior Aviation Safety Officer, with Caltrans Aeronautics, all of whom also are copied on this communication.

As we discussed, one of the reasons prompting our request for a meeting was your staff's failure if not refusal to post on RCEC's internet docket the communications from CalPilots by Andy Wilson concerning the release of the new FAA plume study. Although the FAA had first notified your office about this important information as early as April 2, 2013, and Andy Wilson followed up again on May 31, 2013 by email, it was not until just weeks before our meeting after contacting the Chair's office was any of this posted on the internet docket. In this regard, this confirms our request that your office post on the internet any and all communications when received, not wait until the writer has to request a meeting with Staff.

In addition to bringing to you a hard copy and CD of the new FAA plume modeling program and analysis, attached are copies of the most recent FAA publication concerning changes in the circle to land execution effective November 2012 making that execution wider and placing that action even closer if not on top of RCEC depending upon the aircraft. Also attached is Gary Cathey's December 11, 2011 letter to Bay Area Area Conservation and Development Commission concerning RCEC's violation of the San Francisco Bay Plan under the federal Coastal Zone Management Act. As we reminded you, RCEC came to the airport, the airport did not come to RCEC. However, RCEC was nevertheless permitted based on the Commission overriding CEC's Staff's recommendation that it be denied based on aviation safety. Also attached is a copy of Malcolm Dougherty's January 4, 2012 letter "withdrawing" Gary's attached letter "at that time." Although showing Calpine's significant political power (Gary, an air force reservist, was soon after sent to Afghanistan), Gary's points specifically identify the aviation hazards involved with RCEC's 1000 foot high plume for both Hayward and Oakland's airports.

In this regard, we also wish to emphasize the technical considerations in applying the FAA's new modeling program. First, Hayward and Oakland are both controlled airspace, pilots are supposed to be where they are told to go, and are not supposed to be flying to any destination point without receiving prior clearance from the tower, unlike Blythe airport which airspace is uncontrolled, there is no tower, and pilots may fly where they wish without prior clearance. Therefore, the present NOTAM of "Avoid overflying below 1,000 feet" above sea level ("MSL") is both physically and legally impossible in Hayward's airspace which is 650 feet above ground level (AGL). Hayward's air traffic by aviation regulation is not supposed to go above 650 feet. In this regard, we refer you to Andy Richards' testimony offered by CalPilots in Eastshore (06-AFC-06) at RT p. 176:

based on information I've
9 researched in your docket we the FAA have
10 conducted a preliminary review of impacts to the
11 airport and the traffic pattern. I would like
12 noted for the record that altering the Hayward
13 Airport traffic pattern for plume avoidance is not
14 a reasonable alternative. Any alteration to the
15 Hayward Airport traffic pattern would not only
16 impact local hayward pilots but it would also
17 affect aircraft arrivals into Oakland
18 International Airport.
19 **Raising the traffic pattern altitude**
20 **would place the aircraft at Hayward Airport in**
21 **unsafe proximity to turbojet aircraft arrivals to**
22 **Runway 29 at Oakland International Airport.**
23 **The raised traffic pattern would not**
24 **have the separation required by the FAA to have**
25 **both airports operate independently. . . .**

Later on Andy Richards, the District Manager of the FAA San Francisco Air Traffic Control District, continues at R.T. 177-178:

Before the air traffic organization
12 considers any alteration to the national airspace
13 system a complete safety and risk analysis must be
14 completed. The airport sponsor would have to put
15 in a request to change the airport traffic
16 operation. Then the ATO, the Air Traffic
17 Organization, would have to take the request under
18 consideration.
19 Additionally, any change that would
20 require -- any change that we make would require
21 appropriate environmental analysis based on
22 current federal standards.
23 In conclusion I would like to add

24 Hayward Airport is an important cog in the
25 national airspace system. It presently services
477 based aircraft as well as 19 helicopters. The
2 FAA has no intention or interest of changing any
3 air traffic operation at Hayward Executive
4 Airport. **Any airport change to Hayward would have
5 a direct effect at Oakland, which would have a
6 significant impact on the economy of the Greater
7 Bay Area.** That's all I have, thank you.

http://www.energy.ca.gov/sitingcases/eastshore/documents/2007-12-18_TRANSCRIPT.PDF

We understand Eric's point that the instruction "not to fly below 1000 feet" implicitly is supposed to tell Hayward pilots to "fly around" RCEC and its plume. But, as exemplified by the aerial photo we provided, and due to the fact that the 1000 foot high plume is "invisible," its width unknown and varying with the wind, how a pilot who is supposed to pay attention to the tower's instruction, including spotting other aircraft in the pattern and preparing to circle his/her plane to land, is supposed to fly around an invisible plume remains unknown. In this regard, this implicit advice presents a serious distraction problem for the pilot who is attempting to descend to land, as distraction is a well documented factor contributing to aviation accidents. To say the least, this "plume avoidance" scheme is simply inherently dangerous.

Second, as reflected by Calpine/RCEC's letter from Houston, Texas, to Brendan O'Reilley, Hayward Airport's Operations Manager, RCEC's AGL is 145 feet, however, because of the rising tides its ground footing was raised by ten feet so height above mean sea level or MSL is 155 feet. Therefore, applying Gary's analysis on page 2, when executing the circle to land for runway 10R/28L, descending aircraft attempting to land may fly as low as 488 feet AGL, will actually be only 333 feet above the stack. This is an important point in considering dissipation of the thermal plume given the aircraft's low altitude proximity to the stack and should be examined under the new FAA modeling.

Likewise, the traffic pattern altitude for Oakland's commercial jets and general aviation aircraft near RCEC ranges 591 to 991 feet AGL and aircraft departing Oakland Runway 11 could be as low as 794 AGL, meaning commercial jets will be just 639 feet above RCEC's stack. Further, as Andy pointed out, the 2012 FAA AIM Publication 7-5-15 directs all aircraft not to fly over thermal plumes and states that the hazards presented by thermal plumes, such as RCEC's, are "most critical during low altitude flight, especially during take off and landing." Again, we suspect that applying the new FAA modeling program will confirm that RCEC's thermal plume certainly poses a serious hazard to "the heavies" out of Oakland. (Andy Wilson also anticipates providing some additional technical information to you sometime next week.) In agreeing that the CEC should run this new modeling program for RCEC, we note that this should not be performed by Calpine/RCEC, but to protect its integrity that it must be performed by CEC personnel, the results of which should be publicly available.

In this regard, this confirms our point that this FAA modeling research, *an anticipated study known by both Calpine and the CEC at the time of RCEC's approval*, as well as the recent FAA changes in the circle to land requirements presents new information requiring a new evidentiary hearing for RCEC on the public health and safety aviation hazards posed by RCEC. Further, because the NOTAM advisory adopted by the CEC Commission is physically and regulatorily impossible to satisfy, this is to request that you inform us in writing what the CEC Staff intends to do to address this serious health and safety problem jeopardizing the public as the present advisories are clearly insufficient and contradictory to other aviation regulations. In this regard, attached is a copy of the order by the CEC Commission denying CalPilots, the County of Alameda, Chabot-Las Positas Community College District, and the San Lorenzo Village Homes Associations, among others, petition seeking reconsideration of the CEC's approval for RCEC, which Calpine also opposed. Since none of the parties sought to intervene within the strict CEC timing regulations, the petitions were denied and our ability to raise the same points raised in Eastshore through RCEC's limited evidentiary process was foreclosed--a process which the EPA's Environmental Appeals Board found suffered from a "fundamentally flawed notice process." *Simpson v. EPA*, July 29, 2008 Remand Order, *In Re Russell City Energy Center*, slip opinion (another important document missing from RCEC's docket).

Please let us know by or before August 24, 2013, in writing what the CEC Staff intends to do with this new information which the FAA notified the CEC it was in the process of preparing prior to RCEC's approval, although RCEC chose to forge ahead with construction at their own risk regardless of the consequences. I am also copying John Speckin of the FAA's Airport Obstructions Standards Committee who had earlier provided this new program to you in April 2013.

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