



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

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RESPONSE REQUIRED BY: 6 November 2003

Regulatory Branch

333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith

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1. **INTRODUCTION:** The Calpine Corporation, 4160 Dublin Boulevard, Dublin, California 94568, (contact: Doug Davey, Ph: 916-928-4805) has applied for a Department of the Army permit to fill 1.68 acres of wetlands to construct the Russell City Energy Center (RCEC), a 600-megawatt, natural gas fired power plant on Enterprise Avenue in the City of Hayward, Alameda County, California. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. **PROJECT DESCRIPTION:** Calpine corporation proposes to construct, own, and operate the RCEC as a merchant power plant. The California Energy Commission certified the project on September 11, 2002. The proposed 14.7 acres RCEC site (See attached drawings) is comprised of two adjacent parcels located within the commercial/industrial zone of the City of Hayward. One 11-acre parcel is currently occupied by the transmitter facilities of Radio Station KFAX. The parcel is dominated by ruderal species with some fill areas, as well as patches of alkaline seasonal wetlands. A sand blasting and metal painting facility currently occupy the second 3.7-acre parcel.

Approximately 12.55 fenced acres would be required to accommodate the generation facilities, control/admin buildings, switchyard, emission control equipment, storage tanks, parking area, and storm water detention basins. The project site would be filled, graded, and paved to accommodate the facilities. This would require the filling of eight seasonally ponded wetland areas, totaling 1.68 acres. The wetlands are dominated by salt grass, alkali heath and creeping wild rye. The marginal salinity,

isolation, and ephemeral nature of the wetlands make them unsuitable for the majority of invertebrate prey species that provide forage for shorebirds and waterfowl.

Calpine has proposed mitigation on a 26.19-acre site, comprised of two parcels located on Bush Lane, north of Route 92 and Breakwater Avenue (See attached drawings). The site borders the Hayward Regional Shoreline to the south and west. There are four primary elements in the proposed mitigation plan.

The first element involved dredging the borrow pit that parallels the Johnson Road levee with a long reach excavator, and dredging the remnant tidal channels in the area west of the levee on the mitigation site and the adjacent city of Hayward property with a rotary ditcher. This would improve the flow of salt water into approximately 34.9 acres of managed salt marsh.

The second element would be to create 1.76 acres of wetlands. The levee on the south side of the storm control canal would be completely removed, to create 0.72 acre of managed salt marsh. The Johnson Road levee would be reduced from a 45 - 50 foot wide levee to a 3-foot high, 32-foot wide levee, to create 0.75 acre of diked seasonal wetland. Lastly, 0.30 acre of fill in the northern end of the mitigation site would be removed.

The third mitigation element would be vegetative enhancements to 2.2 acres of adjacent upland habitat. This would be accomplished through manual removal of existing ruderal vegetation, and revegetation by seed, plugs, or vegetative propagation, depending on species.

The fourth element of the plan would be to preserve and manage in perpetuity the approximate 26.2 acres of diked seasonal wetland, seasonal pond and transitional pane features, adjacent upland habitat, and managed salt marsh. The applicant states an agreement has been reached with the East Bay Regional Park District (EBRPD) for an endowment for management of the parcel in perpetuity following completion of the mitigation plan. In addition, a nominal fee lease agreement for the adjacent City of Hayward property has been negotiated between the City of Hayward and the EBRPD.

3. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant is notified by this Public Notice that, unless he provides the Corps with evidence of a valid request for state water quality certification to the San Francisco Bay Regional Water Quality Board within 30 days of the date of this public notice, the Corps may consider this application withdrawn. No Corps permit will be granted until the applicant obtains the required certification or waiver. A will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

4. ENVIRONMENTAL ASSESSMENT: The Corps of Engineers will assess the environmental impacts of the action proposed in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), and pursuant to

Council on Environmental Quality's Regulations, 40 CFR 1500-1508, and Corps of Engineers' Regulations, 33 CFR 230 and 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the jurisdiction of the Corps of Engineers. The documents used in the preparation of the Environmental Assessment will be on file in the Regulatory Branch, Corps of Engineers, 333 Market Street, San Francisco, California.

5. EVALUATION OF ALTERNATIVES:

Evaluation of this activity's impact on the public interest will also include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act, 33 U.S.C. Section 1344(b).

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors that become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and

conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Bob Smith of our office at telephone 415-977-8450 or E-mail: rsmith@spd.usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided on request.