RCEC in the News: Contra Costa Times "Chabot Alone in Fight Against Hayward Shoreline Power Plant"

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# Chabot alone in fight against Hayward shoreline power plant

**By Eric Kurhi**

HAYWARD -- Although staring at a $10 million budget shortfall in the Chabot-Las Positas Community College District, Chancellor Joel Kinnamon said he can't turn a blind eye to the 600-megawatt power plant that's already under construction a mile and a half from the Hayward campus.

The district now stands alone against Calpine in the legal battle, which has reached the Ninth Circuit Court of Appeals and comes with a price tag of $182,000, which is rising.

"We still continue to believe this is a public health threat to our students, for young people, working people, senior citizens, people from a variety of social backgrounds," Kinnamon said. "We're really concerned about health -- that has a great cost."

The district is appealing a permit that was granted on the grounds that impacts on air quality would not be significant. The Environmental Protection Agency rejected an appeal of that permit in November, and construction began within days at the shoreline site between Depot Road and Enterprise Avenue. Since then, four parties have withdrawn from the appeals process, leaving only Chabot to contest the plant.

The natural gas-fired plant has been lauded as the first in the nation with voluntary greenhouse gas restrictions. Proponents say such plants are a needed middle step toward those using renewable resources, taking dirtier ones off the energy grid.

"Gas plants are critical (in) moving toward green energy," said Joe Ronin, Calpine's senior vice president for government and regulatory affairs. "You have to have support for the system. Solar and wind are very intermittent energy sources."

But Kinnamon and attorney Jewel Hargleroad, who is representing the district, say it's not the cleanest technology available, would be the sixth-largest polluter in the greater Bay Area, and regulations related to such a plant at the edge of the Bay were never addressed.

"We do not think this project should be proceeding at all," Hargleroad said. "They have not satisfied the requirements of the Coastal Zone Management Act. The applicant has an obligation to satisfy that and they haven't even applied."

Such claims were rejected in the Environmental Appeals Board's ruling, and Calpine lawyer Kevin Poloncarz said historically, similar appeals to circuit courts around the nation have been rejected, and the courts are "highly deferential to the EAB on scientific and technical matters."

"Only if they find abuse of discretion will they remand it" to the Environmental Protection Agency, Poloncarz said -- and that would entail the agency "acting arbitrarily, failing to consider relevant facts."

Wil Hardee of the Alameda County Taxpayers Association said his watchdog group has been monitoring the process since 2009, after becoming concerned about the district's use of public funds to mount legal battles against the plant.

"They continue to use public money to fight what appears to be a project that is approved," he said. "There are really strenuous processes for these kinds of things to be approved, and we've gone through all of it. At some point, we have to say this is an issue of 'not in my backyard.' Get beyond that and have some balance."

Hardee added the legal expenditures could have helped save some of the 26 positions that recently were eliminated in the district as a budget-cutting measure. Calpine has proved to be a benefactor for other affected parties, with a promise to donate $10 million toward the construction of a new Hayward main library, and giving $1.6 million in funds and land to the East Bay Regional Park District.

But Ronin said Chabot won't sit with them to work out that kind of deal.

"It's frustrating for us," he said. "We offered from the start -- the college needs help, we helped Hayward, we always get involved with the community. We're willing to sit down and do something for the college."

Kinnamon said they haven't sat down because the matter simply will not be placed on the table.

"This plant is a health threat," he said. "There have been corporate interests and political pressures on us, which continue being used as a means to prevent us from defending ourselves."