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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814

***APPLICATION FOR CERTIFICATION FOR THE
REDONDO BEACH ENERGY
PROJECT***

Docket No. 12-AFC-03

**ENERGY COMMISSION STAFF'S STATUS CONFERENCE STATEMENT
(STATUS REPORT #13)**

Background

On July 21, 2015, the Energy Commission Committee (Committee) assigned to conduct proceedings on the Redondo Beach Energy Project (RBEP) Application for Certification (AFC) issued a Notice of Status Conference on the Preliminary Staff Assessment, and on July 23, 2015, the Committee issued an Order Directing Parties to Respond to Identified Issues and Questions.

On July 28, 2014, Energy Commission Staff (Staff) timely published its Preliminary Staff Assessment (PSA) in the Redondo Beach Energy Project AFC. The PSA includes Staff's analyses in all technical topics. Following publication of the PSA, work was suspended in the proceeding until after the March 3, 2015 local election on Measure B.

On May 5, the Committee filed a Scheduling Order directing Staff to hold PSA workshops before May 27, 2015, and file its Final Staff Assessment (FSA) on September 4, 2015. Staff held two days of PSA workshops in the local area on May 20-21, 2015. The 30-day comment period for the PSA closed on June 4, 2015. Additionally, Staff attended the public meeting held by South Coast Air Quality Management District on June 25, 2015 in Redondo Beach. On July 9, 2015, the California Coastal Commission filed its 30413(d) report to the Energy Commission.

Status Report

Currently, Staff is reviewing all comments on the PSA, including comments from the PSA workshop, and written comments by the parties, agencies and the public. Staff is specifically reviewing the comments made by the Coastal Commission in its 30413(d) report and preparing responses for the FSA.

The City of Redondo Beach stated in its last Status Report, docketed on July 7, 2015, that it intends to file supplemental comments on Alternatives, Air Quality, and Noise impacts, and may submit additional comments on Biological Resources and Visual impacts. In addition, the City stated it intends to file population density maps once they are complete. Although the City timely filed comments on the PSA, in its June 5, 2015, Status Report, the City stated it intended to file a motion to amend the schedule and a motion to require production of AES noise data. This intention was repeated in its July Status report. To date, neither motion has been filed, nor has the City made an offer of proof as to why it should be allowed an extra month or more beyond the close of the PSA comment period to file additional comments. If the Final Determination of Compliance is timely filed by the Air District, Staff intends on completing the FSA by the scheduled September 4, 2015 due date.

Response to Identified Issues and Questions

As stated above, Staff is in the process of completing its FSA; therefore, Staff's technical analysis is not complete in all sections.

1. **Site Description:** What is the plan for the reuse of the rest of the site?

Staff's Response: In a June 19, 2015, letter to Keith Winstead, Project Manager, from Jerry Salamy, AFC Project Manager, Mr. Salamy wrote:

The Application for Certification states that "Prior to commencing construction, lot line adjustments will be obtained to establish a single parcel for the RBEP." (AFC, p. 5.6-1) The Applicant intends to comply with Condition LAND-1 by obtaining a lot line adjustment so that the project, excluding linears or temporary laydown and staging areas, will be located on a single legal parcel of approximately 11 acres. The Applicant does not

have plans at this time to adjust the lot lines or parcels on the remaining portions of the AES property. (TN # 205095.)

Any planned uses of the remaining land not used for the proposed power plant would best be answered by the Applicant.

2. **Air Quality/GHG:** How does the efficiency of the proposed turbines, including its heat rate average, impact the Commission's greenhouse gas analysis?

Staff's Response: The efficiency of the proposed turbines, including the average heat rate, does not impact the methodology used in staff's greenhouse gas analysis. However, the efficiency (or heat rate) generally affects the results of staff's analysis. In the RBEP PSA, staff considered the combined-cycle heat rates at various loads and operating configurations in its greenhouse gas analysis to determine whether the facility would be expected to comply with SB1368 Emission Performance Standard and the proposed federal New Source Performance Standard (NSPS). The discussion of the proposed heat rates and determination of compliance with SB 1368, as provided on page 4.1-92 of the Preliminary Staff Assessment, is provided below:

...the project must comply with the SB1368 Greenhouse Gas Emission Performance Standard of 0.500 MTCO₂/MWh. The applicant provided data on the expected heat rates for different gas turbine load scenarios and different configurations. For each configuration (1x1, 2x1, and 3x1), the applicant provided heat rates for five different power outputs ranging from about 60 percent load up to 100 percent load. The applicant also provided the expected number of hours the plant would operate under each scenario, and heat rates for startups and shutdowns. The estimated annual GHG performance [EPS] is 1,063.3 lb CO₂/MWh_{net}, or 0.482 MTCO₂/MWh, which could meet the standard¹. However, under the new federal NSPS, the operation of the facility would have to be restricted somewhat as described above. The federal NSPS is equivalent to 0.454 MTCO₂ per MWh [1,000 lb CO₂/MWh]. Therefore the project would exceed the NSPS limit unless the applicant changes the operation profile to include more operations at higher loads [efficiency]. Conditions of Certification **AQ-21** and **AQ-22** require the facility to comply with Greenhouse Gas Emission Performance Standard and the federal NSPS, respectively. (PSA, p. 4.1-92.)

¹ South Coast Air Quality Management District, John Yee (TN 202457). SCAQMD Preliminary Determination of Compliance, dated June 13, 2014.

3. Noise:

a. Regarding Redondo Beach and Hermosa Beach's Noise Ordinances:

- To the extent the two communities' requirements differ, how should the differences be addressed to determine compliance with LORS?

Staff's Response: Typically, where a power plant project located in a jurisdiction shares borders with another jurisdiction and directly impacts sensitive noise receptors within that neighboring jurisdiction, the more stringent requirements determine compliance with LORS. While the RBEP site is located in Redondo Beach, its northern project boundary is adjacent to Hermosa Beach. Where Hermosa Beach's noise LORS are more stringent than Redondo Beach, Hermosa Beach's requirements determine RBEP's compliance with LORS at the sensitive noise receptors located within Hermosa Beach that would be directly affected by the noise from RBEP, most notably the communities north of the project site.

Hermosa Beach limits construction hours on Mondays through Fridays to between 8 a.m. and 6 p.m. but Redondo Beach limits construction hours on those days to between 7 a.m. and 6 p.m. Staff is internally working on resolving this difference in LORS requirements before publishing the FSA; an analysis including staff's final position on this issue will be included in the FSA. In the meantime, we note that because Hermosa Beach restricts weekday construction to one hour less per day, revising the start time from 7 a.m. to 8 a.m. would extend the nearly five-year demolition and construction period by approximately an additional five-month period. So, although starting one hour later in the day would reduce the period of noise exposure every weekday, it would result in extended exposure to noise in the long-term.

- To the extent the two communities' requirements differ, how should the differing standards, including noise, be addressed in the environmental analysis?

Staff's Response: Typically, the more stringent requirements govern when addressing environmental impacts, where a power plant project located in a jurisdiction shares borders with another jurisdiction and directly impacts sensitive noise receptors within that neighboring jurisdiction. As explained above, while the RBEP site is located in Redondo Beach, the northern project boundary is adjacent to Hermosa Beach. Where Hermosa Beach's noise requirements are more stringent than Redondo Beach, Hermosa Beach's requirements are used to address RBEP's environmental impacts at the sensitive noise receptors located within Hermosa Beach that would be directly affected by the noise from RBEP, most notably the communities north of the project site.

b. Questions have been raised regarding the appropriate baseline for noise.

- Please provide a comparison between the operations of the existing plant and the anticipated operation of the proposed project to help put this in context.

Staff's Response: While the Final Staff Assessment will include a detailed description of this comparison, following is a qualitative summary of that description.

For the purpose of comparing the existing ambient noise levels to the RBEP's operational noise levels, the ambient baselines established for the sensitive noise receptors south and west of the project site (identified as M1 and M2, respectively, in the PSA and FSA analyses) are based on the average nighttime noise levels derived with the existing power plant in operation during some of the time and with it being shut down during the rest of the time. Based on these baselines, the requirements to meet LORS and to maintain project noise impacts below the significance levels

would be satisfied. Even when deriving the baselines by averaging the existing ambient noise levels at these receptors without the existing plant, that is, the portion of the ambient data that does not include operation of the existing plant, the requirements to meet LORS and to maintain project noise impacts below the significance levels would be satisfied. Therefore, RBEP would comply with LORS and CEQA requirements even when taking this more conservative approach.

For the purpose of comparing the existing ambient noise levels to the RBEP's operational noise levels, the ambient baselines established for the sensitive noise receptors north and east of the project site (identified as M3a and M4, respectively, in the PSA and FSA analyses) are based on the average nighttime noise levels derived with the existing power plant not in operation. Based on these baselines, the requirements to meet the LORS and to maintain project noise impacts below the significance level would be satisfied. Therefore, RBEP would comply with LORS and CEQA requirements through this conservative approach.

c. Several questions have been raised about the Conditions of Certification NOISE- 2, NOISE-3, NOISE-4, and NOISE-5.

- What are the standards for employee protection from noise during construction and then during operations (Conditions of Certification NOISE-3 and NOISE-5)?

Staff's Response: Condition of Certification NOISE-3 outlines the standards for employee protection during construction. They require a construction noise control program to reduce employee exposure to high (above permissible) noise levels in accordance with Title 8, California Code of Regulations, sections 5095-5099, and Title 29, Code of Federal Regulations, section 1910.95.

Condition of Certification NOISE-5 outlines the standards for employee protection during operation. They require an operational noise control

program to reduce employee exposure to high (above permissible) noise levels in accordance with Title 8, California Code of Regulations, sections 5095-5099 (Article 105) and Title 29, Code of Federal Regulations, section 1910.95.

The permissible noise levels, as identified in NOISE APPENDIX A of the PSA (p. 4.7-7), are:

**Noise Table A4
OSHA Worker Noise Exposure Standards**

Duration of Noise (Hrs/day)	A-Weighted Noise Level (dBA)
8.0	90
6.0	92
4.0	95
3.0	97
2.0	100
1.5	102
1.0	105
0.5	110
0.25	115

Source: Title 29, Code of Federal Regulations, § 1910.95.

- How will the Energy Commission ensure proper mitigation on neighboring properties (NOISE-4)?

Staff’s Response: The project would be required to comply with Condition of Certification NOISE-4, with mitigation measures adequate to ensure noise levels will not exceed prescribed limits at the nearest sensitive receptors, M1, M2, M3a, and M4. This will be accomplished through proper design and construction of the project and through verification of the operational noise surveys and their follow-up reports required by Condition of Certification NOISE-4 (PSA pp. 4.7-29 & 4.7-30). Included in the survey reports will be a description of any additional mitigation measures necessary to achieve compliance with the noise limits, and a schedule, subject to CPM approval, for implementing these measures. After this report is submitted to the CPM, the noise staff will review and make revisions if necessary to ensure appropriateness of mitigation measures. Next, these approved

measurements are implemented. After they are implemented and in place, and in accordance with NOISE-4, the project owner will repeat the noise survey and submit a summary report to the CPM attesting that these mitigation measures have been implemented and showing compliance. This has been the Energy Commission's practice for years and has worked well for other power plant projects under its oversight authority.

- Regarding the potential for residents being disturbed by noise from the proposed power plant, NOISE-2 requires a complaint reporting program. Upon receipt of a complaint, mitigation measures are then to be devised and implemented. What standards apply for determining appropriate mitigation measures?

Staff's Response: As required by NOISE-2, the project owner must file a Noise Complaint Resolution Form (PSA pp. 4.7-28 & 4.7-33), with the CPM, which documents the nature of the complaint and the definition of the problem after investigation by plant personnel. This form will include a description of the mitigation measure. Upon implementation of the mitigation measure, the complainant's signature on the Noise Complaint Resolution Form must be obtained, showing the complainant's satisfaction with this mitigation measure. Because noise is subjective and can impact people differently, Staff does not typically prescribe a set of standards for determining the appropriateness of mitigation measures that result from a noise complaint. Thus, and appropriately so, Staff's goal is to gain the satisfaction of the individual(s) making the complaint rather than a set of standards that may or may not satisfy the complainant. The Energy Commission has used this method for many other power plant projects under its jurisdiction and it has been successful.

4. **Land Use:**

- a. If the City of Redondo Beach adopts a moratorium and it is determined that it does apply, what options are available to the Energy Commission?

Staff's Response: On April 29, 2015, pursuant to Public Resources Code section 25523(d)(1), and Title 20, California Code of Regulations, section 1710, Staff met and consulted with the City of Redondo Beach regarding potential noncompliance with local land use laws, ordinances, regulations, and standards (LORS) applicable to the project. Staff's record of conversation was filed on May 7, 2015. (TN# 204529)

On July 7, 2015, the Redondo Beach City Council adopted Ordinance Number 3134-15, amending the Municipal Code with modifications to Title 10, Chapter 2 and adding Title 10, Chapter 7, Section 10-7.101 to permanently prohibit city-wide the following uses:

1. Construction of new Electricity Generating Facilities of 50 megawatts or more,
2. Modifications, including alteration, replacement or improvement of equipment, that result in a 50 megawatt or more increase in the electric generating capacity of an existing Electric Generating Facility, and
3. Construction of any facility subject to the California Energy Commission's jurisdiction under Public Resources Code section 25502.3.

A full copy of the ordinance can be found in the City of Redondo Beach's status report, docketed on July 7, 2015. (TN #205252.)

Louise Warren, Deputy Chief Counsel, California Coastal Commission, sent a letter to Roger Johnson, Deputy Director, dated July 17, 2015, stating that Ordinance No. 3134-15 is not required to be submitted to the Coastal Commission to review as part of its LCP, as follows:

... in this particular case, the ordinance is narrowly tailored to prohibit construction or modifications of power plants or other facilities that do not require a coastal development permit because they are under the exclusive permitting jurisdiction of the California Energy Commission. Thus, although this ordinance is not part of the City's LCP, it only affects

development that by statute is outside of the permitting jurisdiction of the City and the Coastal Commission, so it need not be submitted for Coastal Commission certification as part of its LCP. (TN# 205515.)

If the Commission determines that this ordinance creates a LORS non-conformance, then it has the option of determining whether or not to override the local ordinance based on the requirements in Public Resources Code section 25525.

- b. The Energy Commission power plant certification process involves consolidated permitting. However, the Land Use Section's conditions of certification all require future approvals by the City of Redondo Beach, for such things as signage, parking, and structural design standards.
 - How is the Energy Commission discharging its obligations to determine compliance with LORS by allowing post-decision action by the City of Redondo Beach?

Staff's Response: The Land Use section's conditions of certification would require future approvals by the Compliance Project Manager (CPM) to insure local LORS compliance for such things as signage and parking. The City of Redondo Beach would be provided an opportunity to review and comment on the required submittals prior to approval by the CPM.

The applicant's comments on the PSA, (TN# 204902), filed on June 4, 2015, requested several minor changes to the Land Use conditions of certification as presented in the PSA to further clarify the roles of the parties, which Staff is taking into consideration for revisions in the FSA.

5. Soils and Water:

- a. The LORS table on applicable statutes relating to water regulation appears to be incomplete. Are there additional LORS relating to water use or supply that should be included in the LORS table?

Staff's Response: Staff is not aware of any additional LORS that need to be added to the LORS table.

- b. The PSA indicates that the project will use recycled/reclaimed water for process purposes. What is the status of RBEP's use of recycled water:
- During construction/demolition?
 - During operations?

Staff's Response: Staff is recommending that the project be required to use recycled water for its industrial uses during operations because it is available and it complies with state water policy. The applicant was not aware that recycled water was available for the project, but Staff contacted the recycled water wholesaler in the area and found that recycled water was available, especially in the relatively small quantity that the project would use. When the applicant became aware of the availability of the recycled water, it did not object to using it as recommended by Staff. The project applicant has been in negotiations with the purveyor of the recycled water, Cal-Water, to get a contract with them for delivery of the recycled water. However, Staff is not aware of when the recycled water tie-in and pipeline would be completed during construction, so would structure a condition to allow for bridging water supplies during construction and the transition to 100 percent recycled water.

- c. The PSA states that the use of recycled water will require a short interconnection to an existing pipeline.
- What is the length of the recycled water interconnection?

Staff's Response: Judging from the location of the stub-out on Herondo Street, adjacent to the north border of the project site, and the location of the proposed project storage tanks, Staff estimates the length of the interconnection to be about 400 feet, most all of which would be on site within the project boundary. What would most likely happen is that the applicant would need to excavate a 2-foot trench from the stub into the

project site where the pipeline would be placed. The applicant indicated that there is an existing trench close to the location of the stub through which several water lines are going to come into the site. However, California Code of Regulations, title 20, section 64630, Water Main Installation, prohibits placement of potable and non-potable water lines in the same trench; a separate trench would have to be excavated parallel to the existing one to place the recycled water line. The same section of regulations above also requires minimum horizontal and vertical separation between the potable and non-potable water lines.

- When will the interconnection be built?

Staff's Response: Staff is recommending that the project use recycled water for its industrial uses during operations. The project applicant has been in negotiations with the purveyor of the recycled water, Cal-Water, to get a contract with them for delivery of the recycled water. However, Staff is not aware of when the recycled water tie-in and pipeline would be completed during construction, so that recycled water could be used for construction. If construction of the pipeline is not completed before construction begins, the project would have to use potable water for construction until the line has been completed. Staff will structure a condition to allow for bridging water supplies during construction and the transition to 100 percent recycled water.

- Has construction of the recycled water interconnecting pipeline been included in the project description?

Staff's Response: Construction of the recycled water interconnection pipeline has not been included in the project description because it was not included in the AFC since the AFC proposed using potable water only both for construction and operation. However, the interconnection pipeline was included in the analysis part of the PSA and will be maintained in the FSA.

- Have the potential impacts of that interconnection been analyzed?

Staff's Response: Since the interconnection pipeline would be all within the project site, its construction/operation impacts are part of the overall impacts of project construction/operation. The FSA will evaluate the use of recycled water and any needed infrastructure.

- d. The PSA is unclear on whether recycled water would need treatment before use in the project.

- If the recycled water supply would need pre-treatment before power plant use, what steps would be required?

Staff's Response: Other California projects treat recycled water for use in dry-cooled combined-cycle projects like the one proposed. Treatment of the recycled water for industrial processes is commercially available either as a stand-alone system or a skid-mounted rental service. While the level of treatment depends on how the recycled water is going to be used and also how process wastewater would be disposed, Staff does not expect this to be much different from the existing project given the limited amounts of water proposed.

- What potential impacts may arise from pre-treatment?

Staff's Response: Treatment of the recycled water has the potential to impact the characteristics of process wastewater discharged by the project. However, this would be handled in the Waste Discharge Requirements and will be addressed in the FSA.

6. Coastal Commission 30413(d) Report

- For all issues identified in the Coastal Commission's 30413(d) report, when will the analysis of whether the proposed mitigation measures are feasible or likely to cause more significant environmental effect be completed?

Staff's Response: Staff is currently reviewing the Coastal Commission's 30413(d) report and will provide its responses and analysis in the FSA.

- In its “Land Use” section, the Coastal Commission’s 30413(d) report contains a comment about the need for open space for conformity with the Coastal Act. How does this apply to the proposed reuse of the site?

Staff’s Response: The Coastal Commission recommended condition of certification LAND-5 to require the development of an open space plan, which would comply with the Warren-Alquist Act public use area requirement for a facility proposed in the Coastal Zone. Staff would like to add more specificity to the condition and suggests that the size of the open space be at minimum one acre. The failed Measure B, Harbor Village plan for the site included 10 acres of open space. Staff welcomes input from the applicant on what open space opportunities they foresee being able to provide at or near the project site to aide in further refinement of LAND-5.

7. Schedule

The Committee will discuss with the parties the most expeditious way to communicate any revised, expanded, or other amended analysis.

- a. What is the best way to communicate any new or revised information and analysis?

Staff’s Response: Staff is preparing responses to comments and any revised analysis in its FSA, expected to be filed by September 4, 2015.

- b. How much time is required to make any analytical changes/additions that may be identified?

Staff’s Response: Staff is prepared to make any analytical changes or additions as necessary in the FSA, expected to be filed by September 4, 2015.

DATED: July 31, 2015

Respectfully submitted,

Original signed by
KERRY A. WILLIS
Senior Staff Counsel