NAHC

STATE OF CALIFORNIA

NATIVE AMERICAN HERITAGE COMMISSION 915 CAPITOL MALL, ROOM 364 8ACRAMENTO, CA 95814 (916) 653-6251 Fax (916) 657-5290 Web Site www.tishc.ca.gov da_nehc@pecbell.net

August 3, 2012

Mr. Gabriel Roark, M.A., Energy Planner II, Cultural Resources Unit

California Energy Commission

1516 Ninth Street, MS-40 Sacramento, CA 95814-4774

Sent by FAX to: 916-651-8868 No. of Pages: 5

Re: Sacred Lands File Search and Native American Contacts list for the proposed "Huntington Beach Energy Project (HBEP); located in the City of Huntington Beach area; Orange County, California

Dear Mr. Roark:

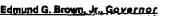
The Native American Heritage Commission (NAHC) conducted a Sacred Lands File searches of the 'area of potential effect,' (APE) based on the USGS coordinates provided and Native American cultural resources were not identified within one-half mile of the project area of potential effect (e.g. APE): you specified. However, this area is known to the NAHC to be very culturally sensitive. Also, please note; the NAHC Sacred Lands Inventory is not exhaustive and does not preclude the discovery of cultural resources during any project groundbreaking activity.

California Public Resources Code §§5097.94 (a) and 5097.96 authorize the NAHC to establish a Sacred Land Inventory to record Native American sacred sites and burial sites. These records are exempt from the provisions of the California Public Records Act pursuant to. California Government Code §6254 (r). The purpose of this code is to protect such sites from vandalism, theft and destruction.

In the 1985 Appellate Court decision (170 Cal App 3rd 604), the court held that the NAHC has jurisdiction and special expertise, as a state agency, over affected Native American resources, impacted by proposed projects including archaeological, places of religious significance to Native Americans and burial sites

The California Environmental Quality Act (CEQA – CA Public Resources Code §§ 21000-21177, amendments effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the CEQA Guidelines defines a significant impact on the environment as 'a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential





effect (APE), and if so, to mitigate that effect. CA Government Code §65040.12(e) defines "environmental justice" provisions and is applicable to the environmental review processes.

Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Local Native Americans may have knowledge of the religious and cultural significance of the historic properties of the proposed project for the area (e.g. APE). Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e). We urge consultation with those tribes and interested Native Americans on the list that the NAHC has provided in order to see if your proposed project might impact Native American cultural resources. Lead agencies should consider <u>avoidance</u> as defined in §15370 of the CEQA Guidelines when significant cultural resources as defined by the CEQA Guidelines §15064.5 (b)(c)(f) may be affected by a proposed project. If so, Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "substantial," and Section 2183.2 which requires documentation, data recovery of cultural resources.

The 1992 Secretary of the Interiors Standards for the Treatment of Historic Properties were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The aforementioned Secretary of the Interior's *Standards* include recommendations for all 'lead agencies' to consider the <u>historic context</u> of proposed projects and to "research" the <u>cultural</u> landscape that might include the 'area of potential effect.'

Partnering with local tribes and interested Native American consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C 4321-43351) and Section 106 4(f), Section 110 and (k) of the federal NHPA (16 U.S.C. 470 *et seq*), Section 4(f) of the Department of Transportation Act of 1966 (23 CFR 774); 36 CFR Part 800.3 (f) (2) & .5, the President's Council on Environmental Quality (CSQ, 42 U.S.C 4371 *et seq.* and NAGPRA (25 U.S.C. 3001-3013) as appropriate. The 1992 Secretary of the Interiors Standards for the Treatment of Historic Properties were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including cultural landscapes. Also, federal Executive Orders Nos. 11593 (preservation of cultural environment), 13175 (coordination & consultation) and 13007 (Sacred Sites) are helpful, supportive guides for Section 106 consultation. The NAHC remains concerned about the limitations and methods employed for NHPA Section 106 Consultation.

Also, California Public Resources Code Section 5097.98, California Government Code §27491 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery', another important reason to have Native American Monitors on board with the project.

To be effective, consultation on specific projects must be the result of an ongoing relationship between Native American tribes and lead agencies, project proponents and their contractors, in the opinion of the NAHC. An excellent way to reinforce the relationship between a project and local tribes is to employ Native American Monitors in all phases of proposed projects including the planning phases.

Confidentiality of "historic properties of religious and cultural significance" may also be protected under Section 304 of he NHPA or at the Secretary of the Interior discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C., 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibility threatened by proposed project activity.

NAHC

If you have any questions about this response to your request, please do not hesitate to contact me at (916) 653-6251.

Sincerely, ave Singleto Native American Contact List Attachment:

NAHC

Ti'At Society/Inter-Tribal Council of Pimu Cindi M. Alvitre, Chairwoman-Manisar 3094 Mace Avenue, Apt. B Gabrielino Costa Mesa, , CA 92626 calvitre@yahoo.com (714) 504-2468 Cell

Juaneno Band of Mission Indians Acjachemen Nation David Belardes, Chairperson 32161 Avenida Los Amigos Juaneno San Juan Capistrano CA 92675 m chiefdavidbelardes@yahoo.

(949) 493-4933 - home (949) 293-8522

Tongva Ancestral Territorial Tribal Nation John Tommy Rosas, Tribal Admin. Private Address Gabrielino Tongva

tattnlaw@gmail.com 310-570-6567

(626) 286-1262 - FAX

Gabrieleno/Tongva San Gabriel Band of Mission Anthony Morales, Chairperson PO Box 693 Gabrielino Tongva San Gabriel, CA 91778 GTTribalcouncil@aol.com (626) 286-1632 (626) 286-1758 - Home

Native American Contact Orange County August 3, 2012

Gabrielino Tongva Nation Sam Dunlap, Chairperson P.O. Box 86908 Los Angeles, CA 90086 samdunlap@earthlink.net

Gabrielino Tongva

(909) 262-9351 - cell

Juaneno Band of Mission Indians Acjachemen Nation Anthony Rivera, Chairman 31411-A La Matanza Street Juaneno San Juan Capistrang CA 92675-2674

arivera@juaneno.com (949) 488-3484

(949) 488-3294 - FAX (530) 354-5876 - cell

Gabrielino Tongva Indians of California Tribal Council Robert F. Dorame, Tribal Chair/Cultural Resources P.O. Box 490 Gabrielino Tongva Bellflower, CA 90707 gtongva@verizon.net

562-761-6417 - voice

562-761-6417- fax

Juaneno Band of Mission Indians Alfred Cruz, Cultural Resources Coordinator P.O. Box 25628 Juaneno Santa Ana , CA 92799 alfredgcruz@sbcglobal.net 714-998-0721 714-998-0721 - FAX 714-321-1944 - cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed

Huntington Beach Energy Project (HBEP); located in the Huntington Beach area of Orange County, California for which a Sacred Lands File search and Native American Contacts list were requested.

NAHC

Juaneno Band of Mission Indians Anita Espinoza 1740 Concerto Drive Juaneno Anaheim CA 92807 neta777@sbcglobal.net (714) 779-8832

United Coalition to Protect Panhe (UCPP) Rebecca Robles 119 Avenida San Fernando Juaneno San Clemente CA 92672 rebrobles1@gmail.com (949) 573-3138

Gabrielino-Tongva Tribe Bernie Acuna 1875 Century Pk East #1500 Gabrielino Los Angeles , CA 90067 (619) 294-6660-work (310) 428-5690 - cell (310) 587-0170 - FAX bacuna1@gabrieinotribe.org

Juaneno Band of Mission Indians Acjachemen Nation Joyce Perry, Representing Tribal Chairperson 4955 Paseo Segovia Juaneno Irvine , CA 92612 949-293-8522 Native American Contact Orange County August 3, 2012

Gabrielino-Tongva Tribe Linda Candelaria, Chairwoman 1875 Century Pk East #1500 Gabrielino Los Angeles, CA 90067 Icandelaria1@gabrielinoTribe.org 626-676-1184- cell (310) 587-0170 - FAX

Gabrieleno Band of Mission Indians Andrew Salas, Chairperson P.O. Box 393 Gabrielino Covina , CA 91723 (626) 926-4131 gabrielenoindians@yahoo. com

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- This list is applicable for contacting local Native Americans with regard to cultural resources for the proposed Huntington Beach Energy Project (HBEP); located in the Huntington Beach area of Orange County, California for which a Sacred Lands File search and Native American Contacts list were requested.



November 1, 2012

Ti'At Society/Inter-Tribal Council of Pimu Cindi M. Alvitre, Chairwoman 3094 Mace Avenue, Apt. B Costa Mesa, CA 92626

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Alvitre,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

The Energy Commission has jurisdiction over the proposed project and has received an Application for Certification to build and operate the power plant and related facilities. The Huntington Beach Energy Project (HBEP) is being proposed for development by AES Southland Development, LLC. The Energy Commission will be analyzing this project in coordination with other state and federal agencies including the California Coastal Commission. In addition, the U.S. Environmental Protection Agency has responsibility for issuing a "Prevention of Significant Deterioration" permit for this project.

The HBEP is a proposed natural-gas fired, combined-cycle, air-cooled, 939-megawatt (MW) electrical generating facility that will replace the AES Huntington Beach Generating Station. HBEP will consist of two independently operating, three-on-one, combined-cycle gas turbine power blocks. Each power block will consist of three-gas-fired combustion turbine generators (CTG), three supplemental natural gas-fired heat recovery steam generators (HRSG), one steam turbine generator (STG), an air-cooled condenser, and related ancillary equipment. Other equipment and facilities to be constructed and shared by both power blocks include natural gas compressors, water treatment facilities, emergency services, and administration and maintenance buildings.

To view a copy of the Application for Certification (12-AFC-02) and find more information about the project and proceedings, please visit the project website: <u>http://www.energy.ca.gov/sitingcases/huntington_beach_energy/index.html</u>. If you want to be notified by e-mail whenever a public meeting is scheduled or a document is posted to the project website, you can sign up for the project list server on the main web page. Public notices can also be sent to you by mail at your request. Should the Tribe request, Energy Commission staff will arrange for a separate meeting to discuss issues that the Tribe may wish to hold in confidence from the general public.

The Energy Commission staff welcomes your comments or questions. If you have concerns regarding impacts of the HBEP project on resources of concern to the Tribe, please contact Thomas Gates at (916) 654-5008; Fax: (916) 651-8868; or thomas.gates@energy.ca.gov.

Sincerely,

/s/Eric Knight

- Enclosures: Regional Location Map Site Location Map HBEP Construction Parking Areas Map
- cc: Energy Commission Dockets Thomas Gates, Cultural Resources Felicia Miller, Project Manager

November 1, 2012

Juaneno Band of Mission Indians Acjachemen Nation David Belardes, Chairperson 32161 Avenida Los Amigos San Juan Capistrano, CA 92675

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Belardes,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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November 1, 2012

Tongva Ancestral Territorial Tribal Nation John Tommy Rosas, Tribal Admin.

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Mr. Rosas,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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These project components are depicted on the three attached figures.

Over the coming months, the Energy Commission will be holding a number of public workshops and hearings on the proposal to determine whether the proposed project should be approved for construction and operation and under what set of conditions.

These workshops and hearings will provide the public and tribes, as well as local, state and federal agencies, the opportunity to ask questions about, and provide input on, the proposed project. The Energy Commission will issue notices for these workshops and hearings at least 10 days prior to the meeting.

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November 1, 2012

Gabrielino/Tongva, San Gabriel Band of Mission Anthony Morales, Chairperson PO Box 693 San Gabriel, CA 91778

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Morales,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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/s/Eric Knight

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November 1, 2012

Sam Dunlap, Chairperson PO Box 86908 Los Angeles, CA 90086

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Dunlap,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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November 1, 2012

Juaneno Band of Mission Indians Acjachemen Nation Anthony Rivera, Chairman 31411-A La Matanza Street San Juan Capistrano, CA 92675-2674

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Rivera,

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November 1, 2012

Gabrielino Tongva Indians of California Tribal Council Robert F. Dorame, Tribal Chair/Cultural Resources PO Box 490 Bellflower, CA 90707

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Dorame,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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Sincerely,

/s/Eric Knight

- Enclosures: Regional Location Map Site Location Map HBEP Construction Parking Areas Map
- cc: Energy Commission Dockets Thomas Gates, Cultural Resources Felicia Miller, Project Manager

November 1, 2012

Juaneno Band of Mission Indians Alfred Cruz, Cultural Resources Coordinator PO Box 25628 Santa Ana, CA 92799

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Mr. Cruz,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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/s/Eric Knight

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November 1, 2012

Juaneno Band of Mission Indians Anita Espinoza 1740 Concerto Drive Anaheim, CA 92807

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Ms. Espinoza,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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Sincerely,

/s/Eric Knight

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November 1, 2012

United Coalition to Protect Panhe (UCPP) Rebecca Robles 119 Avenida San Fernando San Clemente, CA 92672

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Ms. Robles,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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Sincerely,

/s/Eric Knight

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November 1, 2012

Gabrielino –Tongva Tribe Bernie Acuna 1875 Century Pk East #1500 Los Angeles, CA 90067

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Mr. Acuna,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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November 1, 2012

Juaneno Band of Mission Indians Acjachemen Nation Joyce Perry, Representing Tribal Chairperson 4955 Paseo Segovia Irvine, CA 92612

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Perry,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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November 1, 2012

Gabrielino –Tongva Tribe Linda Candelaria, Chairwoman 1875 Century Pk East #1500 Los Angeles, CA 90067

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Candelaria,

Your name was provided to the California Energy Commission (Energy Commission) by the Native American Heritage Commission (NAHC) in a letter dated August 3, 2012, as a representative of a Native American community who might be interested in the proposed construction and operation of a power plant and related facilities in Orange County. The proposed project is located within the City of Huntington Beach and will be located entirely within the footprint of the existing Huntington Beach Generating Station, an operating power plant (see attached area and project location maps). This letter provides general information concerning the current project design, includes attached exhibits depicting the project location, and invites the tribe to participate in Energy Commission consultations with affiliated tribes.

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November 1, 2012

Gabrielino Band of Mission Indians Andrew Salas, Chairperson PO Box 393 Covina, CA 91723

RE: Huntington Beach Energy Project (HBEP) - Invitation to Participate in California Energy Commission / Tribal Consultation

Dear Honorable Chairperson Salas,

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Exhibits Provided with Letters to Native Americans

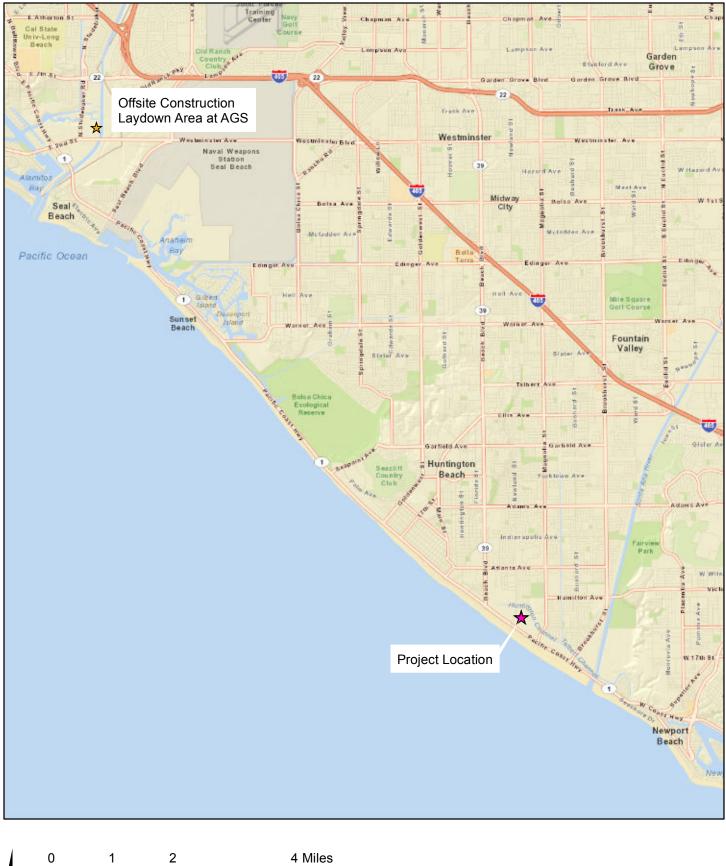


FIGURE 1.1-2 Regional Location Map AES Huntington Beach Energy Project Huntington Beach, California





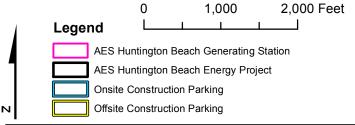


FIGURE 2.3-3 HBEP Construction Parking Areas AES Huntington Beach Energy Project Huntington Beach, California

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