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January 9, 2013

VIA EMAIL

Ms. Felicia Miller, Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814



The Honorable Andrew McAllister
The Honorable Karen Douglas
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Center Project (12-AFC-02)
Request for Extension to Submit Certain Data Responses Contained In CEC
Staff's Data Responses Set Two (#73-98) and Objections**

Dear Commissioners and Ms. Miller:

On December 20, 2012, CEC Staff issued Data Requests, Set Two (#73-98) ("Data Requests") and identified January 22, 2013 as the date by which responses to such Data Requests are due. Applicant has worked diligently since the issuance of the Data Requests to obtain the responsive data Staff seeks in the requests. However, Applicant has identified certain Data Requests that require additional time beyond January 22, 2013 for Applicant to fully respond to as well as requests to which Applicant objects, as set forth below.¹

¹ As Staff is aware, Applicant is currently preparing responses to certain requests in Set One, as well as to requests from Intervenor Pyle, and will provide such responses to all parties on or before January 18, 2013.



Request for Extension

Pursuant to Title 20, California Code of Regulations, section 1716(f), Applicant herein requests an extension of time to respond to Data Requests PH-74 through PH-77, S&W-80 through S&W-83, TRAFFIC-87, and TRAFFIC-92 through TRAFFIC-94, as these requests require Applicant to obtain additional information and/or conduct additional modeling. As such, Applicant is unable to furnish the information requested in Data Requests PH-74 through PH-77, S&W-80 through S&W-83, TRAFFIC-87, and TRAFFIC-92 through TRAFFIC-94 by January 22, 2013. Therefore, Applicant respectfully requests that CEC Staff agree to extend the deadline and allow Applicant until **February 15, 2013** to respond to these Data Requests.

OBJECTIONS

In addition to the specific Data Requests that Applicant seeks an extension of time in which to respond, Applicant herein objects to the following Data Requests: NOISE-73, SOCIO-78, TRAFFIC-91, and VIS-98. Such objections are set forth separately below.

NOISE-73: Data Request NOISE-73 seeks additional noise analyses for certain periods set forth in Staff's Table DR-73. Applicant objects to Data Request NOISE-73 on the grounds that the request seeks information that will be overly burdensome for the Applicant to develop. In fact, this request seeks information that is infeasible to produce and would not produce meaningful results. Section 5.7.4.2.1 of the AFC provides a detailed analysis of construction, demolition, and commissioning activities with typical noise levels noted at various distances from the HBEP site. As noted in AFC Tables 5.7-6 through 5.7-8, noise levels related to decommissioning, demolition, and construction activities are highly variable based on the number of types of construction/demolition equipment used at any given time, and the specific construction, demolition or commissioning activities that are occurring at any given time. Therefore, it is infeasible for Applicant to provide a meaningful response to this Request. Moreover, as identified by the City, Applicant will limit noisy construction and demolition work to Monday through Saturday from 7 am to 8 pm and restricted anytime on Sundays or federal holidays. In addition, Section 5.7.6 of the AFC includes various mitigation measures that have been previously found by the CEC to effectively mitigate noisy construction, demolition, and commissioning activities.

SOCIO-78: Data Request SOCIO-78 seeks additional information related to project costs and budgets. Applicant objects to Data Request SOCIO-78 on the grounds that such request seeks information based on assumptions so subjective as to render the requested information irrelevant.



Moreover, Applicant objects to SOCIO-78 on the grounds that a project budget at the level of detail requested in this request is not required as part of the CEC's licensing process, nor is this level of detail required as part of the CEC Staff's CEQA analysis. Furthermore, the detailed information requested (*i.e.*, "what percent each line-item expenditure would be made within Orange County and within the Los Angeles Metropolitan Statistical Area") calls for speculation. Section 5.10 of the AFC and the clarification provided in response to Staff's previous Data Requests Set 1 (SOCIO-40 and SOCIO-41) provide the appropriate socioeconomic information and data for Staff to conduct a complete analysis of HBEP's impacts on socioeconomics. Lastly, as evidenced in Section 5.10 of the AFC, there is clearly no potential for HBEP to have a significant adverse impact to socioeconomics and, thus, the level of additional information and analysis requested in SOCIO-78 is not warranted.

TRAFFIC-91: Data Request TRAFFIC-91 seeks an analysis of an alternate delivery method for heavy/oversized loads. Applicant objects to Data Request TRAFFIC-91 as such analysis is not required under CEQA. CEQA only requires the discussion of alternatives that would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. As noted in AFC sections 5.12.2 and 5.12.4, the addition of HBEP construction and demolition-related traffic (including heavy/oversized loads) would not result in significant impacts to roadway operations or the environment. Therefore, neither Applicant nor Staff needs to conduct an analysis of alternative delivery methods in order for Staff to conclude that the traffic analysis complies with CEQA.

VIS-98: Data Request VIS-98 asks Applicant to prepare and submit a concept for a visual enhancement plan. Applicant objects to Data Request VIS-98 on the grounds that it requires Applicant to provide improper mitigation. HBEP results in improvements to visual resources as compared to the existing Huntington Beach Generating Station, which is the existing baseline condition for the requisite CEQA analysis of the proposed HBEP. As noted in section 5.13.2.5 of the AFC, the HBEP will improve the visual quality at and surrounding the existing Huntington Beach Generating Station site. Moreover, as noted in AFC section 5.13.4, HBEP would not substantially change the existing visual character and quality of the project site as viewed from any of the KOPs and, in fact, the HBEP would improve the overall visual quality of the project site. Thus, no mitigation is required as the visual impacts from HBEP are less than significant. Applicant does note, however, that like the existing HBGS, the proposed HBEP will also contain landscaping that complies with local LORS requirements. (AFC Table 5.13-3.) Applicant has reached out to the City and continues to engage the City to ensure that public visual resources are



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preserved and enhanced where feasible. Any additional visual enhancements to HBEP that the Applicant may consider based on consultation with the City would be voluntary on the part of the Applicant.

Notwithstanding the above objections and the request for extension of time to respond to Data Requests PH-74 through PH-77, S&W-80 through S&W-83, TRAFFIC-87, and TRAFFIC-92 through TRAFFIC-94, Applicant will respond to the best of its ability to the remaining Data Requests in Set Two on or before January 22, 2013.

Very truly yours,

Melissa A. Foster

MAF:jmw

cc: Proof of Service List



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION FOR THE
HUNTINGTON BEACH ENERGY PROJECT**

**Docket No. 12-AFC-02
PROOF OF SERVICE
(Revised 12/24/12)**

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***After docketing, the Docket Unit will
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below. Do not send copies of
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*indicates change

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DECLARATION OF SERVICE

I, Judith M. Warmuth, declare that on January 9, 2013, I served and filed copies of the attached **Applicant's Request for Extension to Submit Certain Data Responses Contained in DEC Staff's Data Responses Set Two (#73-98); Objections** dated January 9, 2013. This document is accompanied by the most recent Proof of Service list, which I copied from the web page for this project at: http://www.energy.ca.gov/sitingcases/huntington_beach_energy/index.html.

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, as appropriate, in the following manner:


(Check one)

For service to all other parties and filing with the Docket Unit at the Energy Commission:

- I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the US mail with first class postage to those parties noted above as "hard copy required"; **OR**
- Instead of e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: January 9, 2013



Judith M. Warmuth