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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

The Application for Certification for the

**HUNTINGTON BEACH ENERGY
PROJECT**

Docket No. 12-AFC-02

AES SOUTHLAND DEVELOPMENT, LLC'S PREHEARING STATEMENT

July 31, 2014

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STATE OF CALIFORNIA

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AES SOUTHLAND DEVELOPMENT, LLC'S PREHEARING STATEMENT

On July 24, 2014, the Committee assigned to this proceeding issued a Notice of Continued Evidentiary Hearing and Tentative Staff Workshop and Related Orders ("Notice and Order"). Pursuant to the Notice and Order, Applicant AES Southland Development, LLC ("Applicant") herein provides its Prehearing Statement and responds to the Order's specific instructions.

I. APPLICANT'S POSITION FOR EACH REMAINING TOPIC

The Notice and Order sets forth the remaining topics to be heard during the continued evidentiary hearing. Such topics are limited to the following:¹

- Land Use
- Hazardous Materials
- Water Resources
 - Feasibility of use of wastewater
 - Conditions of Certification
- Soils and Geology
 - Seismic issues/Fracking
- Greenhouse Gases
- Compliance Conditions (COM-13 and COM-15)

¹ Applicant notes that Waste Management is not included on the topic list set forth in the Notice and Order. Applicant provides additional discussion regarding this topic herein.

It is Applicant's belief that from the topics noticed to be discussed during the continued evidentiary hearing, the only topic remaining unresolved between Staff and Applicant relates to Compliance Conditions COM-13 and COM-15. That stated, however, as of this date, Applicant has not been provided Staff's revisions to Conditions of Certification to which Staff and Applicant have agreed. Moreover, Applicant has been informed that Staff is preparing revisions to additional Conditions of Certification, none of which are known to Applicant at this time. Accordingly, Applicant reserves the right to present any necessary testimony, response, or rebuttal to any Conditions of Certification that are revised by Staff but have not been previously provided to Applicant and have not been previously contested.²

In addition, Applicant understands that Ms. Rudman has requested additional opportunity for testimony and cross-examination as to all topics set forth herein. Applicant will have the appropriate witnesses available for questions from Ms. Rudman or the Committee as to those topics. For those topics presented on July 21, 2014, Applicant's witnesses will be available either by phone or in person, if needed.³

A. Land Use

As set forth in Applicant's July 7, 2014 Prehearing Conference Statement, Applicant proposed a minor modification to Condition of Certification LAND-1. Applicant understands that Staff has accepted this proposed revision. To that end,

² Applicant requests that Staff circulate a copy of all proposed revisions to any Conditions of Certification as soon as possible in order to allow Applicant the opportunity to review and consult with its witnesses prior to the August 6, 2014 Continued Hearing. For conditions where Staff's proposed revisions are acceptable to Applicant, Applicant will indicate as such during the August 6 Continued Hearing. For all other conditions, Applicant requests that the Committee leave the record open to allow the parties adequate time to review and respond to Staff's proposed revisions.

³ Applicant's witness regarding Biological Resources, Melissa Fowler, will be in the field on August 6 and is, therefore, not available.

Applicant believes this topic requires no adjudication. However, Applicant's witness will be available at the Continued Hearing for any questions related to this topic.

B. Hazardous Materials

Applicant proposed minor modifications to Condition of Certification HAZ-6.

Applicant understands that Staff has further revised proposed HAZ-6 as follows:

HAZ-6 Prior to initial delivery, ~~the~~ project owner shall direct ~~all~~ vendors delivering **bulk quantities (>800 gallons per delivery) of any hazardous material (e.g., aqueous ammonia, lubricating and insulating oils)** to the site to use only the route approved by the CPM (I-405 to Beach Boulevard (State Highway 39), south onto Pacific Coast Highway (State Highway 1), and left onto Newland Street, then right into the HBEP site). The project owner shall obtain approval of the CPM if an alternate route is desired.

Verification: At least sixty (60) days prior to **initial receipt of bulk quantities (>800 gallons per delivery) of hazardous material (e.g., aqueous ammonia, lubricating or insulating oils) and at least ten (10) days prior to a new vendor delivery of bulk quantities (>800 gallons per delivery)** ~~any hazardous materials on site,~~ the project owner shall submit ~~copies~~ **a copy** of the required transportation route limitation **letter containing the route restriction directions that were provided to the hazardous materials vendor** ~~direction~~ to the CPM for review and approval.

Applicant is amenable to such revisions. Thus, Hazardous Materials Handling is no longer a contested topic. Nevertheless, Applicant will have a witness available regarding this topic.

C. Water Resources

Applicant suggested a minor correction to an Order referenced in Condition of Certification SOIL&WATER -4. Applicant understands that Staff has accepted such correction and, thus, Applicant believes this topic is resolved as to the issues pending between Staff and Applicant. Applicant understands that Ms. Rudman has questions

regarding this topic and Applicant's witness will be available for questions during the Continued Hearing.

D. Soils and Geology

Soils and Geology are topics Applicant understands to be uncontested between Staff and Applicant. It is Applicant's understanding that the remaining issues as to this topic relate to inquiries posed by Ms. Rudman. Applicant's witness for this topic will be available to respond to questions during the Continued Hearing.

E. Greenhouse Gases

Applicant and Staff are in agreement as to this topic. Applicant understands that Ms. Rudman has questions for the Air Quality panel related to this topic. As such, Applicant's witnesses for Air Quality will be available for additional questions during the Continued Hearing.

F. Compliance Conditions (COM-13 and COM-15)

As set forth in Applicant's Opening Testimony and Prehearing Conference Statement, two Compliance Conditions remain contested. Specifically, Applicant objects and has proposed revisions to Conditions of Certification COM-13 and COM-15. Applicant believes that a discussion among the parties could resolve the issues set forth in Exhibit L to Applicant's Opening Testimony. (Exhibit 1132.)

G. Waste Management

As with Hazardous Materials Management, Applicant proposed minor modifications to Condition of Certification WASTE-1 and WASTE-2. The proposed revisions are reflected in Exhibit J to Applicant's Opening Testimony. (Exhibit 1132.) It is Applicant's understanding that Staff is amenable to such revisions and thus, Waste

Management is not a contested topic. Nevertheless, Applicant will have the appropriate witnesses available as to this topic.

II. APPLICANT'S WITNESSES AND ESTIMATED TIME OF DIRECT AND CROSS-EXAMINATION

Applicant anticipates direct- and cross-examination of witnesses as set forth below.

A. Land Use

Testimony for this topic was presented in Applicant's Opening and Rebuttal Testimony. Witnesses Robert Mason and Stephen O'Kane will be in person at the Continued Hearing. Because Applicant understands this topic to be resolved as between Staff and Applicant, Applicant does not currently intend to present direct testimony. However, in order to preserve its right to present testimony, if needed, Applicant reserves five (5) minutes for direct-examination of its witnesses and five (5) minutes cross-examination of Staff.

B. Hazardous Materials

As noted above, Applicant understands this issue to be resolved between Staff and Applicant. However, if needed, Applicant will present five (5) minutes of direct-examination and requests five (5) minutes to cross-examine Staff. Witnesses Robert Mason, Jerry Salamy and Stephen O'Kane will be in person at the continued hearing.

C. Water Resources

Applicant understands this issue to be resolved between Staff and Applicant, but understands Ms. Rudman may have questions concerning this topic. If needed, Applicant will present five (5) minutes of direct examination and requests five (5) minutes to cross-examine staff. Witness Matt Franck will be traveling and must attend by cell phone.

Because of Mr. Franck's limited availability, Applicant requests that Water Resources be heard first at 1:30 or as soon thereafter as possible, such that Applicant can ensure its witness for this topic is available.

D. Soils and Geology

Applicant does not intend to provide direct testimony for this topic. However, Applicant's witness, Thomas Lae, will be available in person for questions and cross-examination during the Continued Hearing.

E. Greenhouse Gases

Witnesses Jerry Salamy and Stephen O'Kane will be available in person for questions and cross-examination for this topic during the Continued Hearing. Applicant, however, does not intend to provide direct testimony related to Greenhouse Gases as such testimony has already been presented.

F. Compliance Conditions (COM-13 and COM-15)

As this topic remains contested at this time, Applicant anticipates presenting direct testimony for this topic and requests a total of ten (10) minutes. Applicant's witness for Compliance Conditions is Stephen O'Kane. Mr. O'Kane will be in person at the Continued Hearing and available for questions and cross-examination. Applicant requests up to ten (10) minutes to cross-examine Staff.⁴

G. Waste Management

As noted above, Applicant believes this topic is resolved, but Applicant's witnesses Robert Mason, Jerry Salamy and Stephen O'Kane will be in person at the

⁴ See Exhibit L to Applicant's Opening Testimony (Exhibit 1132) for relevant scope of the contested issues.

Continued Hearing. If necessary, Applicant requests five (5) minutes for direct examination and five (5) minutes to cross-examine staff.

III. CONCLUSION

Applicant is confident that the record in this proceeding sets forth a comprehensive environmental analysis of the proposed Project, which will allow the Committee to prepare the Presiding Member's Proposed Decision and the full Commission to make a favorable decision.

Date: July 31, 2014

Stoel Rives LLP

A handwritten signature in blue ink, appearing to read "Melissa A. Foster".

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