

DOCKETED

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500 Capitol Mall, Suite 1600
Sacramento, California 95814
T. 916.447.0700
F. 916.447.4781
www.stoel.com

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KRISTEN T. CASTAÑOS
Direct 916.319.4674
kristen.castanos@stoel.com

Mr. John Heiser, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Project - Petition to Amend (12-AFC-02C)
Project Owner's Comments on the Preliminary Staff Assessment**

Dear Mr. Heiser:

On June 24, 2016, California Energy Commission Staff published its Preliminary Staff Assessment ("PSA") for the Huntington Beach Energy Project ("HBEP" or "Project") Petition to Amend ("PTA") and requested written comments to be submitted within 30 days. On July 12, 2016, Staff held a PSA workshop in Huntington Beach. AES Huntington Beach Energy, LLC ("Project Owner" or "AES") participated in the workshop and discussed certain comments set forth herein as well as reserved the opportunity to provide written comments on the PSA. Project Owner also reserves the right to provide additional comments, if needed, within the 30-day public comment period. Project Owner's comments on the PSA are set forth below.

In addition to the comments set forth below, Project Owner stresses the importance of Staff's timely issuance of the Final Staff Assessment ("FSA"). There are several critical milestones that the Project must meet, and a 2016 CEC final decision on the PTA is necessary to ensure the HBEP's success.

I. GENERAL COMMENTS

On June 17, 2016, the Commission approved the transfer of ownership of the Huntington Beach Energy Project from AES Southland Development, LLC to AES Huntington Beach Energy, LLC. There are two instances in the PSA where this change in ownership is not reflected. The first is located on page 4.3-27 (in the cultural resources abbreviation and acronym glossary) and the second is on page 4.5-3 (Land Use, Environmental Impact Analysis, last bullet).

As discussed at the PSA Workshop, Project Owner is also proposing that certain filings and approvals required by various Conditions of Certification ("COCs") be deemed approved if no action is taken by CEC staff within the specified timeframe. These changes are necessary to

Mr. John Heiser, Project Manager
July 21, 2016
Page 2

maintain Project schedule, to ensure success in meeting regulatory directives, contractual milestones, and policy objectives.

II. EXECUTIVE SUMMARY

The Project Owner has one minor correction on page 1-1 of the PSA's Executive Summary.

- In the 4th paragraph, the last sentence should read: "Existing Units 1 and 2 would be demolished to their turbine decks."

III. PROJECT DESCRIPTION

Project Owner has the following minor comments on the Project Description section of the PSA:

- PSA page 3-1, first paragraph: the owner and applicant is an "indirect wholly-**owned** subsidiary of **The AES Corporation Southland, LLC**"
- PSA page 3-8, Project Features: "28.6" should be "30" acre site.
- PSA page 3-11, paragraph starting "The construction laydown areas" should also describe laydown at the Plains All American Tank Farm site.
- PSA page 3-11, paragraph starting "Construction and demolition parking" refers to 1.9 acres at the Plains All American Tank Farm site. This should be revised to 22 acres (330 spaces).

IV. AIR QUALITY

Project Owner has the following comments on the Air Quality section of the PSA:

- Page 4.1-5, Air Quality Table 1: Title 40 Code of Federal Regulations Part 60, Subpart KKKK as included in this table provides the incorrect emission limits. The correct emission limits are 15 parts per million by volume corrected to 15 percent oxygen for oxides of nitrogen (NO_x) or 0.43 pounds of NOX per megawatt-hour (lb/MWh) and a sulfur dioxide (SO₂) emission limit of 0.90 lb of SO₂/MWh. Please revise accordingly.
- Page 4.1-22, Air Quality Table 5: Project Owner noted the following inconsistencies in the background concentrations presented in this table:
 - The 2014 federal 1-hour nitrogen dioxide (NO₂) value should be 0.0537 parts per million (ppm) instead of 0.0547 ppm.

Mr. John Heiser, Project Manager

July 21, 2016

Page 3

- The 2011 1-hour CO value should be 2.9 ppm instead of 3 ppm.
- The 2014 1-hour CO value should be 2.7 ppm instead of 3 ppm.
- The 2009 federal 1-hour sulfur dioxide (SO₂) value should be 0.006 ppm instead of 0.004 ppm.
- The 2010 federal 1-hour SO₂ value should be 0.006 ppm instead of 0.002 ppm.
- The 2011 24-hour SO₂ value should be 0.002 ppm instead of 0.001 ppm.
- Page 4.1-23, Air Quality Table 6: The 24-hour PM_{2.5}, federal 1-hour SO₂, and federal 1-hour NO₂ background concentrations should be 3-year averages rather than 3-year maximums. Further, based on the CO values presented in Air Quality Table 5, the 3-year maximum 1-hour and 8-hour CO background concentrations should be 3,436 µg/m³ and 2,290 µg/m³, respectively.
- Page 4.1-28, Air Quality Table 9: In the Alamitos Energy Center permit application (Facility ID 115394), the South Coast Air Quality Management District (“District” or “SCAQMD”) accepted an oil/water separator (“OWS”) emission factor of 0.00002 pounds of volatile organic compounds (VOC) per 1,000 gallons of throughput. Using this emission factor for the Amended HBEP OWS results in revised emissions of 0.017 pounds per year for OWS 1 and 0.0022 pounds per year for OWS 2, or 0.0000022 pounds per hour (lbs/hr) for both OWS units annualized over 8,760 hours per year. This may warrant a change to the offsets described on PSA page 4.1-13.
- Page 4.1-30, Air Quality Table 11: Using the revised OWS emission factor described in the comment regarding Air Quality Table 9 above results in revised emissions of 0.0000096 tons per year for both OWS units.
- Page 4.1-32, Air Quality Table 12: The modeled impact for 24-hour PM_{2.5} is shown as 4.3 µg/m³, but Table 5.1-21 of the revised Petition to Amend (PTA) showed a value of 3.4 µg/m³.
- Page 4.1-37, 4th paragraph: Using the same approach for PM_{2.5} as Staff used for respirable particulate matter (PM₁₀), the Project Owner calculated a necessary emission reduction value of 0.14 pounds per day (lbs/day) PM_{2.5} instead of 0.17 lbs/day. The calculations are as follows:

Mr. John Heiser, Project Manager

July 21, 2016

Page 4

- Emission Reduction (lbs/day) = Emission Rate (lbs/hr) x 24 hours per day – Daily Emission Rate (lbs/day) x (12 $\mu\text{g}/\text{m}^3$ – Ambient Background [$\mu\text{g}/\text{m}^3$]) / Modeled Impact ($\mu\text{g}/\text{m}^3$) = 0.033 lbs/hr x 24 – (0.033 lbs/hr x 24) x (12 $\mu\text{g}/\text{m}^3$ – 11.34 $\mu\text{g}/\text{m}^3$) / 0.8 $\mu\text{g}/\text{m}^3$ = 0.14 lbs/day
- Page 4.1-40, Air Quality Table 13: The modeled impact for 24-hour PM2.5 is shown as 5.1 $\mu\text{g}/\text{m}^3$, but Table 5.1-24 of the revised PTA showed a value of 3.04 $\mu\text{g}/\text{m}^3$. In addition, the modeled impact for federal 1-hour SO2 is shown as 5.8 $\mu\text{g}/\text{m}^3$, but Table 5.1-24 of the revised PTA showed a value of 4.86 $\mu\text{g}/\text{m}^3$.
- Page 4.1-48, Air Quality Table 17: The title of this table and text preceding this table continue to indicate that the emissions presented are 30-day averages. However, these emissions coincide with data from PDOC Tables C.6 and C.7, which are annual emissions.
- Page 4.1-52, Air Quality Table 18: The modeled impact for 24-hour PM2.5 is shown as 5.1 $\mu\text{g}/\text{m}^3$, but Table 5.1-35 of the revised PTA showed a value of 3.15 $\mu\text{g}/\text{m}^3$. In addition, the modeled impact for federal 1-hour SO2 is shown as 5.8 $\mu\text{g}/\text{m}^3$, but Table 5.1-35 of the revised PTA showed a value of 4.86 $\mu\text{g}/\text{m}^3$.
- Page 4.1-53, Air Quality Table 19: The modeled impact for 24-hour PM2.5 is shown as 5.1 $\mu\text{g}/\text{m}^3$, but Table 5.1-36 of the revised PTA showed a value of 3.08 $\mu\text{g}/\text{m}^3$. In addition, the modeled impact for federal 1-hour SO2 is shown as 5.8 $\mu\text{g}/\text{m}^3$, but Table 5.1-36 of the revised PTA showed a value of 4.87 $\mu\text{g}/\text{m}^3$.
- Page 4.1-53, last paragraph: This text indicates that demolition of Huntington Beach Generating Station (HBGS) Units 3 and 4 will last from the 1st/2nd quarter of 2020 to the 4th quarter of 2021. The construction schedule presented in the revised PTA indicates it will last until the 1st/2nd quarter of 2022.
- Page 4.1-54, Air Quality Table 20: The modeled impact for 24-hour PM2.5 is shown as 5.1 $\mu\text{g}/\text{m}^3$, but Table 5.1-37 of the revised PTA showed a value of 2.97 $\mu\text{g}/\text{m}^3$. In addition, the modeled impact for federal 1-hour SO2 is shown as 5.8 $\mu\text{g}/\text{m}^3$, but Table 5.1-37 of the revised PTA showed a value of 4.79 $\mu\text{g}/\text{m}^3$.
- Page 4.1-55, Air Quality Table 21: The modeled impact for 24-hour PM2.5 is shown as 4.4 $\mu\text{g}/\text{m}^3$, but Table 5.1-38 of the revised PTA showed a value of 3.62 $\mu\text{g}/\text{m}^3$. In addition, the modeled impact for federal 1-hour SO2 is shown as 4.3 $\mu\text{g}/\text{m}^3$, but Table 5.1-38 of the revised PTA showed a value of 0.95 $\mu\text{g}/\text{m}^3$.

- Page 4.1-64, Air Quality Table 22: The modeled impact for 24-hour PM_{2.5} is shown as 5.1 µg/m³, but Table 5.1-40 of the revised PTA showed a value of 3.05 µg/m³. In addition, the modeled impact for federal 1-hour SO₂ is shown as 6.0 µg/m³, but Table 5.1-40 of the revised PTA showed a value of 5.03 µg/m³.
- Page 4.1-76, COC AQ-SC6: The emission reduction required for PM_{2.5} should be revised to 0.14 lbs/day per the comment provided for Page 4.1-37.
- Page 4.1-77, COC AQ-SC9: Project Owner has already purchased 5 lbs/day of VOC and 5 lbs/day of PM₁₀ Emission Reduction Credits (“ERCs”) for the Amended HBEP and the SCAQMD is prohibited by law and regulation from issuing a Permit to Construct without satisfying the ERC surrender requirements. Specifically, SCAQMD Rule 1303(b)(2) requires the Executive Officer of the SCAQMD to deny a Permit to Construct for any new or modified source which results in a net emission increase of any nonattainment air contaminant at a facility, unless emission increases are offset by either Emission Reduction Credits, or by allocations from the Priority Reserve, or by allocations from the Offset Budget. Therefore, the SCAQMD is prohibited from issuing a Permit to Construct for the HBEP unless the Project Owner provides the required emission reduction credits for the auxiliary boiler. If the SCAQMD does not issue a Permit to Construct, the Project Owner cannot commence with construction of the HBEP. Since it is possible that the specific amount of ERCs required may change prior to the issuance of the Permit to Construct from the SCAQMD, based on either the comments provided above regarding the oil/water separator or any change in equipment based on final engineering design, it will require a Petition to Amend COC AQ-SC9 if specific ERC amounts are listed. Based on the foregoing, Project Owner requests Condition AQ-SC9 be revised as proposed below:

AQ-SC9 The project owner shall provide emission reductions in the form of offsets or emission reduction credits (ERCs) ~~in the quantities of at least 4 lbs/day of for~~ VOC and ~~5 lbs/day of~~ PM₁₀ emissions for the auxiliary boiler and ~~1 lb/day of~~ VOC emissions for the oil/water separators. The project owner shall demonstrate that the reductions are provided in the form required by the South Coast Air Quality Management District (District).

~~The project owner shall provide an ERC list and surrender the ERCs as required by the District. The project owner shall request CPM approval for any substitutions, modifications, or additions to~~

~~the ERCs. The CPM, in consultation with the District, may approve any such change to the ERC list provided that the project remains in compliance with all applicable laws, ordinances, regulations, and standards, and that the requested change(s) will not cause the project to result in a significant environmental impact. The District must also confirm that each requested change is consistent with applicable federal and state laws and regulations.~~

Verification: The project owner shall submit to the CPM records showing that the project's offset requirements have been met prior to initiating construction. ~~If the CPM approves a substitution or modification to the list of ERCs, the CPM shall file a statement of the approval with the project owner and Energy Commission docket.~~ The CPM shall maintain an updated list of approved ERCs for the project.

- Page 4.1-85 - 4.1-86, COC AQ-22: Staff should be advised that Project Owner commented on this and other Conditions in the comments on the PDOC submitted to the SCAQMD on July 11, 2016 (TN# 212278). Project Owner requests that any changes to AQ-22, and any other Air Quality Condition made by the District and included in the FDOC, be reflected in the FSA (and Final Decision).

V. BIOLOGICAL RESOURCES

Project Owner has the following comments on the Biological Resources section of the PSA:

Staff's analysis in the PSA (page 4.2-4) assumes the Project Owner would be responsible for demolition and ground disturbance of the Plains All American site. This is not correct. The demolition and any required grading as part of demolition of the Plains All American site is not dependent on the development of the HBEP and will be accomplished under a separate Coastal Development Permit ("CDP") previously issued to Plains All American by the City of Huntington Beach (CDP No. 10-011). Therefore, as the Project Owner is not responsible for the demolition of the Plains All American site and the CEC has no jurisdiction over the Plains All American site demolition, COCs BIO-1 through BIO-8 do not apply to activities at the Plains site that are covered by the existing CDP.

As discussed at the July 12, 2016 PSA Workshop, the Project Owner also requests that Staff revise BIO-1 regarding the requirements for obtaining approval of a Designated Biologist. As discussed at the PSA Workshop, in light of the Project construction schedule, it is imperative that

Mr. John Heiser, Project Manager
July 21, 2016
Page 7

Project Owner obtain timely approvals for all designated resource specialists and timely review and approval of required plans. Project Owner proposes the following language be added to the Verification of BIO-1:

Any Designated Biologist previously approved by Commission Staff within the preceding five (5) years shall be deemed approved ten (10) days after project owner provides a resume and statement of availability of the proposed Designated Biologist. The CPM may disapprove a previously approved Designated Biologist within seven (7) days of Project Owner submission of the Proposed Designated Biologist's resume and statement of availability only if non-compliance or performance issues were documented in the compliance record for the previous CEC project work conducted by the proposed Designated Biologist or the Designated Biologist's qualifications are not applicable to the specific biological resources identified in the HBEP project area.

Project Owner also noticed that the PSA fails to accurately identify Staff's proposed changes to certain Biological Resources Conditions of Certification. Staff inserted various new language in the Biological Resources conditions that is not included in the Final Decision (and, in fact, was adjudicated in the AFC proceeding for the Licensed HBEP), and did not indicate such new language in **bold underline**. For example, there is language in BIO-1 that is not included in the Final Decision, and that is not reflected in bold underline (page 4.2-5, "consultation with USFWS and CDFW"). There is no basis, discussion, or justification for adding this requirement to BIO-1 for the Amended HBEP. As outlined in the original proceeding, any requirements for "consultation with USFWS and CDFW" should be removed from this condition, as follows:

In lieu of the above requirements, the resume shall demonstrate to the satisfaction of the CPM, ~~in consultation with CDFW and USFWS~~, that the proposed Designated Biologist or alternate has the appropriate training and background to effectively implement the conditions of certification.

In a similar vein, Staff inserted language in the first paragraph BIO-5 that states "shall secure approval for the WEAP from the CPM in consultation with USFWS and CDFW." For the same reasons noted above, this language should be removed from BIO-5 and the language from the Final Decision version of BIO-5 shall remain. Given that Staff did not highlight this and potentially other changes in the PSA BIO COCs, Project Owner requests that Staff review the

Mr. John Heiser, Project Manager
July 21, 2016
Page 8

BIO COCs and use the Final Decision COCs as the baseline for any changes proposed by Staff in their assessment.¹

VI. CULTURAL RESOURCES

Project Owner has the following comments on the Cultural Resources section of the PSA:

As discussed at the July 12, 2016 PSA Workshop, the Project Owner requests that Staff revise CUL-1 regarding the requirements for a Cultural Resource Specialist. Specifically, Project Owner requests the following language be added to the Verification of the Cultural Resources COCs related to the Cultural Resource Specialist:

The Project Owner shall provide the Compliance Project Manager (CPM) with the resume and qualifications of its Cultural Resource Specialist (CRS) for review and approval. A proposed CRS previously approved by Commission Staff within the preceding five (5) years shall be deemed approved ten (10) days after project owner provides a resume and statement of availability of the proposed CRS. The CPM may disapprove a previously approved CRS within seven (7) days of Project Owner submission of the CRS' resume and statement of availability only if non-compliance or performance issues events were documented in the compliance record for the previous CEC project work conducted by the proposed Cultural Resource Specialist previously approved within the last five (5) years by the Commission shall be automatically approved and the project owner shall provide a resume and statement of availability. The CPM may disapprove a previously approved CRS if non-compliance or performance issues were documented in the record during the previous project work by the CRS or the CRS's qualifications are not applicable to the specific biological resources identified in the HBEP project area.

¹ Various other sections of the BIO COCs contain similar errors and reflect changes from the Final Decision COCs that are not noted in **bold underline**. For example, such errors can also be found in, but are not necessarily limited to, BIO-2 (various); BIO-5 Verification (deletion of term “planned”); BIO-7, Item 2; BIO-7, Item 7; BIO-7, Item 8; BIO-8, heading; BIO-8, Item 2 (deletion of necessary language “during February 1 through August 31”); etc. In addition, the bold underline Verification language on PSA page 4.2-15 (BIO-7) is not a new change in the PSA- it is language that is already included in BIO-7 in the Final Decision (except for the various typographical errors).

VII. LAND USE

Project Owner has the following comments on the Land Use section of the PSA:

- Page 4.5-5, third paragraph: The City of Huntington Beach approved the new resolution (Resolution No. 2016-27), thus Staff should update the information referencing the “expected” City action.

VIII. PUBLIC HEALTH

Project Owner has the following comment on the Public Health section of the PSA:

- PSA page 4.7-13, Fugitive Dust: The third bullet indicates that fugitive dust could occur from an onsite concrete batch plant. However, the project will not have an onsite concrete batch plant.

IX. SOIL & WATER RESOURCES

Project Owner notes that various COCs appear to contain changes from the Final Decision COCs (same comment as set forth in Biological Resources footnote 1, *supra*). However, many of such changes in various S&W COCs do not accurately identify the proposed changes as compared to the Final Decision in **underline** or ~~strike through~~. While Project Owner does not have any substantive comments on the specific changes at this time, Staff should clearly delineate any proposed changes to the Final Decision COCs in their FSA and Project Owner will provide comments, if any, after appropriate review of such delineated changes.

X. TRAFFIC & TRANSPORTATION

Project Owner has no comments on the Traffic and Transportation analysis contained in the PSA or on Staff’s minor revisions to existing COCs TRANS-1 through TRANS-7. However, as set forth in Project Owner’s February 10, 2016 Response to City of Huntington Beach Comments on the PTA (TN# 210262), Project Owner is willing to incorporate two additional COCs to ensure that the City’s comments related to the new proposed intersection at Magnolia and Banning are addressed. As set forth in detail in TN# 210262 and as further revised in TN#210567², the two

² As discussed during the February 16 Status Conference, Project Owner’s March 1, 2016 Status Report #2 proposes certain revisions to the COCs originally proposed in TN# 210262.

COCs are as follows:

- **HBEP Construction Worker Parking/Construction Laydown Access:** The Project Owner will provide the engineering plan/drawings for the design and reconfiguration of the Magnolia/Banning intersection (signal and street striping/signage), including the grading and civil engineering to construct a two-lane entrance road into the Plains former oil storage site to the CPM for review and approval, and to the City of Huntington Beach Public Works Department for review and approval. Project Owner will provide the engineering plan/drawings for the design and configuration of entrances and a pedestrian crosswalk for the Newland Street construction parking area to the CPM for review and approval, and to the City of Huntington Beach Public Works Department for review and approval.

Verification: At least 30 days prior to construction **of the intersection reconfiguration**, Project Owner will provide the engineering plan/drawings for the design and reconfiguration of the Magnolia/Banning intersection and entrance road into the Plains site and the design and configuration of entrances and a pedestrian crosswalk for the Newland Street construction parking area to the City of Huntington Beach Public Works Department and to the CPM for review and approval.

- **Replacement of Street Parking Due to Reconfiguration of Magnolia/Banning Intersection:** If existing street parking on Magnolia Street is reduced as a result of the Project's reconfiguration of the Magnolia/Banning intersection and the construction of the new entrance to the Plains site, the Project Owner shall replace the loss of street parking on a one-for-one basis within "walking distance" of the displaced parking spaces as required by Section 231.28 of the City of Huntington Beach Zoning Code. Replacement parking shall be assured before removal of any existing parking to ensure no reduction in available parking spaces.

Verification: At least 10 days prior to reduction of existing street parking, Project Owner shall identify replacement parking and receive approval of the same from the City and CPM.

XI. TRANSMISSION LINE SAFETY & NUISANCE

Project Owner notes that TLSN-1 and TLSN-2 appear to contain changes from the Final Decision COCs (same comment as set forth in Biological Resources footnote 1, *supra*). However, many of such changes in various TLSN COCs do not accurately identify the proposed changes as compared to the Final Decision in **bold underline** or ~~striketrough~~. During the AFC proceeding, AES proposed revisions to TLSN-1 and TLSN-2 and Staff concurred with these revisions during the September 17, 2014 PMPD Conference. (*See* TN# 203068; TN# 203110 at pp. 29-30.) These revisions, which are correctly reflected in the Final Decision COCs, are not reflected in the PSA. It appears that Staff may have relied on earlier versions of the TLSN COCs and instead should have used the Final Decision COCs in the PSA. Further, if Staff proposes any changes to Final Decision COCs, Staff should clearly delineate any proposed changes to the Final Decision COCs in their FSA and Project Owner will provide comments, if any, after appropriate review of such delineated changes.

XII. VISUAL RESOURCES

Project Owner has the following comments on the Visual Resources section of the PSA:

- PSA page 4.12-26, 1st paragraph: The PSA suggests that the Final Decision found all KOPs potentially significant. This is incorrect. The Final Decision found 2 KOPs potentially significant. The Final Decision found less than significant impacts without visual screening at all other KOPs. The impacts of Amended HBEP on visual resources are less than significant and no mitigation is required, but Project Owner commits to implementing the screening recommended by the City.
- General Comment: As noted in Project Owner's general comments above, all COCs requiring submittal of plans, etc. must include a timeframe for CEC review/response. For example, if no CPM response is received within a certain timeframe of receipt of such plans, etc., they are deemed approved. Failure of CEC to timely review and respond will significantly impact project schedule. This pertains to VIS-1, VIS-2, VIS-3, VIS-5, and VIS-6.

VIS-1: Project Owner objects to Staff's proposed change to the timing of COC VIS-1 Verification in the PSA to "prior to the start of construction." Project Owner requests the timing trigger for this submittal be prior to commissioning of the combined cycle gas turbine ("CCGT").

Mr. John Heiser, Project Manager
July 21, 2016
Page 12

Project Owner notes that architectural screening and prefabricated project structures will be final-designed and installed after construction/installation of the HBEP generating units and support equipment, which is scheduled to be completed in 2019.

The Project Owner acknowledges that CEC Staff has included new language in the VIS-1 Verification that states “a different timeframe for submitting the Plan is allowed by agreement between the Project Owner and the CPM.” However, Project Owner can be certain that submittal of the VIS-1 Plan is not possible prior to start of construction and, therefore, VIS-1 should be revised to include a feasible deadline for submittal. Project Owner also has concerns about obtaining timely CPM approval for such Plan after the PTA process is complete based on the project schedule and, therefore, also requests that certain VIS-1 language be clarified prior to Final Decision.

Lastly, regarding Staff’s newly proposed language on PSA page 4.12-28 requiring submission of a “physical sample of a plastic sphere,” Project Owner can agree to provide a 6 inch by 6 inch physical sample of the plastic material that will be used for fabrication of the plastic spheres to the CPM.

Based on the foregoing comments, Project Owner proposes the following revisions to VIS-1:

VIS-1 (page 4.12-26) ~~Prior to the start of construction submitting the master drawings and master specifications list for the project to the Chief Building Official (CBO) and the Compliance Project Manager (CPM),~~ **†** The project owner shall prepare and submit a Visual Screening and Enhancement Plan for Project Structures (Plan) that includes methods and materials to visually screen and treat surfaces of publicly visible power plant structures. ~~(Condition of Certification GEN-2 in the Facility Design section of the Commission Decision addresses requirements pertaining to the master drawings and master specifications list.)~~

(page 4.12-28) **Supplement to the Visual Screening and Enhancement Plan for Project Structures.** Prior to submitting instructions and orders for architectural screening materials, prefabricated project structures, and paints and other surface treatments to manufacturers or vendors of project structures, the

project owner shall submit a Supplement to the Visual Screening and Enhancement Plan for Project Structures (Supplement). The Supplement shall include color brochures, color chips, and/or physical samples showing each proposed color and finish that will be applied to architectural screening structures and directly to power plant structures. **A physical sample of a the plastic material to be used in sphere from the City's recommended sphere wall shall be included with the Supplement.** Electronic files showing proposed colors may not be submitted in place of original samples. Colors must be identified by vendor, name, and number, or according to a universal designation system.

Verification: At least No more than 60 45 calendar days prior to the start of commissioning the CCGT construction before submitting the master drawings and master specifications list to the CBO (in accordance with the requirements of GEN-2), the project owner shall submit a Visual Screening and Enhancement Plan for Project Structures (**the Plan**) to the CPM for review and approval. The project owner shall, simultaneously with the submission to the CPM, submit seven copies of the ~~Visual Screening and Enhancement Plan~~ to the City of Huntington Beach Planning and Building Department for review and comment.

VIS-2: Project Owner requests that the timing for submission of the Plan required by VIS-2 be changed to 90 calendar days before the start of commissioning, as set forth below. The proposed deadline of prior to site mobilization is not feasible and unreasonable given that the Plan in question pertains to screening and landscaping for the operational phase of the Project.

VIS-2 (PSA page 4.12-32) ***

Verification: At least 90 calendar days before the start of commissioning site mobilization ~~No more than 45 calendar days after submitting the master drawings and master specifications list to the CBO (in accordance with the requirements of condition of certification GEN-2),~~ the project owner shall submit the Perimeter Screening and Onsite Landscape and Irrigation Plan to the CPM for review and approval. The project owner shall, simultaneously with the submission to the CPM, submit seven copies of the Perimeter Screening and On-site Landscape and Irrigation Plan to the City of Huntington Beach Planning and Building Department for review and comment.

Mr. John Heiser, Project Manager
July 21, 2016
Page 14

VIS-5: Project Owner has concerns regarding Staff's inclusion of the following language: "Lighting to enhance the aesthetics of the project's architectural screening structures shall be addressed in the Lighting Management Plan." Project Owner objects to inclusion of such language in VIS-5 as such lighting would be counter to and in direct violation of other required components of VIS-5, including:

- Exterior lighting shall be hooded, shielded and directed downward to prevent obtrusive spill light beyond the project site
- Exterior lighting shall be designed to minimize backscatter to the night sky to the maximum extent feasible
- Energy efficient lighting products and systems shall be used for all permanent new lighting installations. The lighting system shall work in conjunction with occupancy sensors, photo sensors, wireless controls.....to maximum energy savings.

As discussed at the PSA Workshop, if Staff is unwilling to delete the entirety of that new requirement from VIS-5, at a minimum it should be revised as follows:

"If any lighting is proposed for ~~to enhance the aesthetics of the project's architectural screening structures,~~ **all such lighting** shall be addressed in the Lighting Management Plan."

XIII. WASTE MANAGEMENT

The Project Owner has one comment on WASTE-5 regarding Staff's revision to the verification. The Waste Management Plan will be provided to the City for review and comment, but it is the CEC CPM that will approve the Waste Management Plan. Thus, Staff's additional language about submission to the City for approval ("~~and the city of Huntington Beach Department of Planning and Building~~") should be deleted from the Condition Verification.

In addition, Project Owner notes that WASTE-2 appears to contain changes from the Final Decision COC (same comment as set forth in Biological Resources footnote 1, *supra*). However, the PSA does not accurately identify proposed changes as compared to the Final Decision in **bold underline** or ~~strikethrough~~. While Project Owner does not have any

Mr. John Heiser, Project Manager
July 21, 2016
Page 15

substantive comments on the specific changes at this time, Staff should clearly delineate any proposed changes to the Final Decision COCs in their FSA and Project Owner will provide comments, if any, after appropriate review of such delineated changes.

XIV. GEOLOGY & PALEONTOLOGY

Project Owner has the following comments on the Geology and Paleontology section of the PSA:

- PSA Page 5-2-3, Tsunami: Project Owner agrees with Staff's conclusion that "The geologic hazards present at the amended HBEP site are essentially the same as those considered in the Commission's Decision" and appreciates Staff's consideration for mitigating potential tsunami risks. However, the Tsunami map included in the PSA as GEOLOGY AND PALEONTOLOGY - FIGURE 1 was issued by the City of Huntington Beach well before the Commission issued the HBEP license. Furthermore, this figure was included in an advisory brochure issued by the Huntington Beach Fire Department Emergency Management & Homeland Security to the general public and is not a law, ordinance, regulation, and/or standard. The Project Owner is willing to incorporate applicable tsunami recommendations and procedures into the Emergency Action Plans specified in Conditions Worker Safety-1 (Project Construction Safety and Health Program) and Worker Safety-2 (Project Operations and Maintenance Safety and Health Program) similar to other known geologic hazards that exist. In fact, Project Owner's existing site safety plan already includes tsunami response as part of the Emergency Action Plan. Further, there is no regulatory requirement for a hard hat sticker or signature on an attendance sheet by each employee for attending site training related to tsunamis, and this aspect of any plan should be deleted.
- PSA page 5-2-2, LAWS, ORDINANCES, REGULATIONS AND STANDARDS (LORS) COMPLIANCE Table, last row: Please delete the last row of this table as the Bureau of Land Management (BLM) Instructional Memorandum 2008-009 is not applicable to the HBEP site.
- GEO-2 requires revision to clarify the requirements of the City Code. GEO-2 clearly reflects the City Code requirements to consult with the Fire Chief to determine whether any requirements apply. To clarify the second paragraph of GEO-2 should be revised as: "As **If** required, the permit shall specifically include:..."

Mr. John Heiser, Project Manager

July 21, 2016

Page 16

- PAL-1 Verification item 3 requires the addition of the term “planned” as follows: “Prior to any **planned** change in the PRS, the project owner shall submit the resume of the proposed new PRS to the CPM for review and approval.” It is not possible to predict all potential scenarios that could result in the need to change the PRS; however, the construction schedule cannot be interrupted in response to unplanned contingencies; therefore, the Project Owner and CPM will coordinate to approve a replacement PRS within no more than 5 working days.

As discussed at the July 12, 2016 PSA Workshop, the Project Owner also requests that Staff revise PAL-1 regarding the requirements for approval of a Paleontological Resource Specialist. Specifically, Project Owner requests the following language be added to the Verification of the Paleontology COCs related to the Paleontological Resource Specialist:

The Project Owner shall provide the Compliance Project Manager (CPM) with the resume and qualifications of its Paleontological Resource Specialist (PRS) for review and approval. A proposed CRS previously approved by Commission Staff within the preceding five (5) years shall be deemed approved ten (10) days after project owner provides a resume and statement of availability of the proposed PRS. The CPM may disapprove a previously approved PRS within seven (7) days of Project Owner submission of the Proposed PRS’ resume and statement of availability only if non-compliance or performance issues events were documented in the compliance record for the previous CEC project work conducted by the proposed Paleontological Resource Specialist previously approved within the last five (5) years by the Commission shall be automatically approved and the project owner shall provide a resume and statement of availability. The CPM may disapprove a previously approved PRS if non-compliance or performance issues were documented in the record during the previous project work by the PRS or the PRS’s qualifications are not applicable to the specific biological resources identified in the HBEP project area.

XV. TRANSMISSION SYSTEM ENGINEERING

Project Owner has the following comments on the Transmission System Engineering section of the PSA:

Mr. John Heiser, Project Manager

July 21, 2016

Page 17

- PSA Page 5.5-6, Condition **TSE-3**, Verification – The Project Owner suggests the following minor clarifications in the wording of the 1st and last paragraphs of the TSE-3 Verification.

TSE-3: ***

Verification: Prior to the start of construction ~~on~~or modification of transmission facilities, the project owner shall submit to the CBO for approval.

Prior to the start of construction ~~of~~or modification of transmission facilities, the project owner shall inform the CBO and the CPM of any anticipated changes to the design that are different from the design previously submitted and approved and shall submit a detailed description of the proposed change and complete engineering, environmental, and economic rationale for the change to the CPM and CBO for review and approval.

XVI. ALTERNATIVES

Project Owner has the following comments on the Alternatives section of the PSA:

- PSA page 6-4, Clutches: This discussion should clarify that this information is solely being provided for informational purposes, and should note that installation of a clutch/synchronous condenser does not reduce or eliminate any significant impacts of the project so it is not a true “alternative.”
- PSA page 6-6, Potential Clutch Installation at the Amended HBEP, 3rd bullet point in the 1st series of bullet points – Project Owner recommends that the reference to “cooling tower” be changed to “cooling system” as follows:
 - “In California, air regulations do not permit the turbine exhaust bypass of the oxidation and selective catalytic reduction catalysts located in the heat HRSGs, so either the HRSG has to be designed to operate “dry” or the cooling ~~tower~~ system has to be sized large enough to take all the steam dumped from the HRSG if the steam turbine is taken off line via a clutch.”

XVII. COMPLIANCE CONDITIONS

The Compliance COCs included in the PSA do not use the HBEP Final Decision COCs as the baseline to show Staff's proposed edits/changes to the adopted COCs. Project Owner reserves the right to submit additional comments regarding the Compliance COCs for Amended HBEP when Staff provides the Project Owner revised Compliance COCs that are based on the Compliance COCs in the HBEP Final Decision. Thus, the mark-up showing Staff's proposed changes to the adopted, existing COCs needs to be corrected. Further, there is no explanation for the rationale or reason that Staff has proposed modifications to the Compliance COCs.

Specific problems include, but may not be limited to:

- **COM-11** (Reporting of Complaints): There is no basis for modifying the timeframe to report complaints, and it should remain as 10 days or, at minimum, should be 5 **business** days.
- **COM-13** (Incident Reporting):
 - As discussed at the PSA Workshop, new Item 1 must be deleted. As written, incident reporting would be required for even the most minor outages, and would be infeasible. In addition, the PSA issued in the original proceeding for the Licensed HBEP included a similar item related to dispatch outages, which AES objected to and was removed from COM-13 in the Final Decision. The Licensed HBEP FSA and Final Decision do not include this requirement and there is no basis or explanation for the addition in the PSA for the Amended HBEP. Specifically, the Compliance section of the PSA states that the "Compliance Plan provides a means for assuring that the facility is constructed, operated, and closed in compliance with public health and safety and environmental law." Under the heading "Emergency Response Contingency Planning and Incident Reporting," the PSA further provides:

To protect public health and safety and environmental quality, the conditions of certification include contingency planning and incident reporting requirements to ensure compliance with necessary health and safety practices. A well-drafted contingency plan avoids or limits potential hazards and impacts resulting from serious incidents involving personal injury, hazardous spills, flood,

fire, explosions or other catastrophic events and ensures a comprehensive timely response. All such incidents must be reported immediately to the CPM and documented. These requirements are designed to build from “lessons learned,” limit the hazards and impacts, anticipate and prevent recurrence, and provide for the safe and secure shutdown and re-start of the facility. (PSA at p. 7-9 (emphasis added).)

Item 1 does not relate to assurance of operations in accordance with public health and safety or environmental law. Further, the requirements of Item 1 are overly burdensome and there is no legal basis for the CPM requiring receipt of such information. As in the Final Decision for the Licensed HBEP, Project Owner requests that Item 1 be deleted from COM-13.

- Changes to reporting timeframes must be corrected to reflect the timeframes approved in the Final Decision for HBEP. These timeframes were disputed in the HBEP proceeding and the Final Decision made a final determination on these timeframes. There is no basis for changing them.
 - Incident report must be filed within **6 business days**, not 1 week
 - Upon request, incident reports must be provided within **48 hours**, not 24 hours
- **COM-14** (Non-Operation and Repair/Restoration Plans): must be revised to retain exception for “unplanned maintenance” - maintenance (whether planned or unplanned) does not fall within “non-operation” that was included for Licensed HBEP.
- **COM-15** (Facility Closure Planning)
 - a. Items B.4, B.5 and B.10 (“long-term”) - References to “long-term” activities were deleted from the Final Decision as long-term, post-closure activities exceed CEC jurisdiction.
 - b. Item B.4.d “including ongoing testing and monitoring protocols” should be deleted; post-closure is outside CEC jurisdiction.
 - c. Delete change: “the Energy Commission may initiate correction actions against the project owner to complete facility closure” – the Project Owner finds no basis or need for this change.

Mr. John Heiser, Project Manager
July 21, 2016
Page 20

XVIII. CONCLUSION

HBEP is critical to maintaining electrical system reliability in Southern California. Project Owner looks forward to receipt of an FSA that reflects the comments set forth herein and as discussed during the July 12, 2016 PSA Workshop. Project Owner firmly believes that upon publication of the FSA, the Committee will be in a position to quickly move into the evidentiary hearing phase and through Final Commission Decision approving the Project in 2016.

Very truly yours,



Kristen T. Castaños

KTC:htn