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BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
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APPLICATION FOR CERTIFICATION FOR THE:

HUNTINGTON BEACH ENERGY PROJECT
PETITION TO AMEND

Docket No. 12-AFC-02C

**STAFF COMMENTS ON THE HUNTINGTON BEACH ENERGY PROJECT PETITION
TO AMEND PRESIDING MEMBER’S PROPOSED DECISION**

Staff recommends the following edits to the Presiding Member’s Proposed Decision (PMPD). The majority of edits are in the nature of clarifications, errata, or changes that provide consistency between sections of the PMPD. All the proposed changes are supported by the record and none of the proposed changes are sufficient to trigger the need for an additional 15-day comment period as set forth in Title 20 section 1746. Deletions to text are shown in ~~strike through~~ and additions are shown in **bold underline**.

AIR QUALITY

1. **Page 4.2-9:** There is an error in referencing Condition of Certification **AQ-2**. The text should read as follows:

CONTESTED ISSUES

Conditions of Certification ~~AQ-SC1~~ and ~~AQ-SC2~~ AQ-2

The primary area of dispute between Staff and AES concerned Conditions of Certification **AQ-SC1** and ~~AQ-SC2~~ AQ-2.⁴⁰ After the Evidentiary Hearing, Staff submitted a Reply Brief in which it made changes to conditions of certification that had been proposed by AES. In Condition of Certification **AC-SC1**, Staff removed language requiring that the Air Quality Construction/Demolition Mitigation Manager (AQCMM) could not be removed without consent of the CPM. In addition, consistent with the testimony during the Evidentiary Hearing, Condition of Certification ~~AQ-SC2~~ AQ-2 was

2. **Page 4.2-10:** The following edit should be made to change “Construction Project Manager” to “Compliance Project Manager”:

“Staff further asserts that requiring the ERC list will allow the ~~Construction~~ **Compliance** Project Manager (CPM) to maintain an accurate list of ERCs for the Amended Project,”

3. **Appendix A, page 38:** Under **AQ-6**, the text below the table should not have a “1,” and the text should be bold and aligned with both the table above it and the text below.
4. **Appendix A, page 35:** The **Verification** for **AQ-2** does not reflect Staff’s proposal. However, there was no debate on this language between the parties. For consistency and clarification, **Verification** for **AQ-2** should read as follows:

The project owner shall submit the retirement plan and any modifications to the plan to the CPM within five working days of its submittal **to or from the District**, either by: 1) **sending a copy of** the project owner’s submittal to District, or 2) receipt of proposed modifications from District. The project owner shall make **the** site available for inspection of records by representatives of the District, ARB, and the Energy Commission.

BIOLOGICAL RESOURCES

Page 5.1-7: The following edit should be made to change “Construction Project Manager” to “Compliance Project Manager”:

“Appointment of a Designated Biologist begins with providing the ~~Construction~~ **Compliance** Project Manager (CPM) with the resume, references, and contact information of a proposed Designated Biologist”

CULTURAL RESOURCES

1. **Page 5.3-1, footnote 1**, edits to clarify the regulatory context for this subject area:
Footnote 1 is misplaced, should be removed from the “Setting” section and added to the end of the first sentence of the “Introduction,” because Section 21084.1 of the Public Resources Code provides a mandate to assess cultural resources impacts under the California Environmental Quality Act (see suggested edits below).

INTRODUCTION

The Energy Commission must consider the potential impacts of the amended Huntington Beach Energy Project (Amended Project) on cultural resources, such as prehistoric and historic archaeological sites, buildings, structures, objects, and historic districts.¹

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. .
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SETTING

In addressing the cultural resources in and around the Amended Project site, we must first define the Project Area of Analysis (PAA).⁴

2. **Page 5.3-1, footnote 2**, correction of page reference to the Final Staff Assessment (FSA):

² Ex. 6000, pp. ~~4.3-4-4.3-5~~4.3-6.

3. **Page 5.3-2, footnote 10**, correction of page references to the 2014 Decision:

¹⁰ *Id.* at pp. 5.3-9 – 5.3-~~10~~4.

4. **Page 5.3-3, footnote 14**, correction of page reference to the FSA:

¹⁴ Ex. 6000, pp. 4.3-3 – 4.3-~~4.3~~4.

5. **Page 5.3-3, footnote 15**, correction of regulatory reference:

¹⁵ Pub. Resources Code, §§ 21074, subd. (~~ca~~); 21084.1; 21083.2, subdivs. (g) and (h).

6. **Page 5.3-3, Tribal Consultation, second paragraph**, clarification of first sentence:

For the Amended Project, **the Native American Heritage Commission (NAHC)** ~~Energy Commission staff (Staff)~~ reviewed the **its** files of the Native American Heritage Commission (NAHC) and **informed Energy Commission staff (Staff)** determined that **the NAHC had no record of** ~~there were no~~ sacred lands within a one-half-mile radius of the Amended Project.

7. **Page 5.3-4, footnote 16**, correction of page reference to the FSA:

¹⁶ Ex. 6000, pp. 1-4, 4.3-~~7~~6.

8. **Page 5.3-6, Contested Issue, second paragraph**, correction of last sentence:

Staff recommends the following edits to this section, because the Compliance Project Manager's prerogative to disapprove a candidate Cultural Resources Specialist (CRS) is the subject of the subsequent paragraph in the section.

"Appointment of a CRS begins with providing the ~~Construction~~ **Compliance** Project Manager (CPM) with the resume, references, and contact information of a proposed CRS at least 75 days prior to the start of Cultural Resources Ground Disturbances,²⁴ site mobilization, or construction-related ground disturbance activities. ~~The CPM may withhold approval of a proposed CRS only if the proposed candidate has repeatedly failed to comply with the cultural resources conditions of any Energy Commission licensed project for which they were a CRS.~~²⁵

GEOLOGICAL AND PALEONTOLOGICAL RESOURCES

Page 5.4-7: The following edit should be made to change “Construction Project Manager” to “Compliance Project Manager”:

“Appointment of a PRS begins with providing the ~~Construction~~ **Compliance** Project Manager (CPM) with the resume, references, and contact information of a proposed PRS”

LAND USE

Appendix A, page 132: In the verification portion of Condition of Certification **LAND-1**, the word “relate” should change to “related” and the word “withal” should change to “with all”.

NOISE AND VIBRATION

Appendix A, page 143: Footnotes defining “noisy” and “excessive noise” in **NOISE-6** are missing. The footnotes define these two terms as:

“‘Noisy’ means ‘noise that draws a legitimate complaint’ (for the definition of ‘legitimate complaint,’ see the footnote in Condition of Certification **NOISE-2**)”

“‘Excessive noise’ means ‘noise that draws a legitimate complaint’ (for the definition of ‘legitimate complaint,’ see the footnote in Condition of Certification **NOISE-2**)”

SOCIOECONOMICS

Page 6.3-4: The discussion on environmental analysis enumerates four points that are incorrectly attributed to geological and paleontological resources. While the text is correctly referencing the pages in the Socioeconomics section of Final Staff Assessment Part 1, the text incorrectly reports these impacts. The text should attribute them to socioeconomic resources. These enumerated statements are true for socioeconomic resources.

1. No new significant impacts to **socioeconomic** ~~geological and paleontological~~ resources not previously analyzed;
2. No substantial increase in the severity of previously identified environmental impacts;
3. No mitigation measures previously found to be infeasible are now feasible, nor would these infeasible mitigation measures substantially reduce a significant effect of the Amended Project related to **socioeconomic** ~~geological and paleontological~~ resources; and
4. No mitigation measures or alternatives that are considerably different from those analyzed in the 2014 Decision would substantially reduce one or more significant effects of the Amended Project on the environment.²¹

TRAFFIC AND TRANSPORTATION

1. **Page 6.2-7:** The title “Construction Project Manager” should change to “Chief Building Official (CBO)” to be consistent with Condition of Certification **TRANS-8**.
2. **Appendix A, page 135:** Under **TRANS-3**, the last sentence in bullet 11 is missing the word “Beach”. The last sentence in bullet 11 should read:

“The Parking/Staging Plan shall prohibit use of the Huntington Beach City **Beach** parking area unless the CPM determines that there are insufficient parking spaces available at the other parking facilities identified in this Decision.”
3. **Appendix A, page 135:** Under **TRANS-3**, bullet 12 is missing. As requested by the Applicant and agreed upon by the City of Huntington Beach and Staff (see TN215154 pages 65-68), bullet 12 should state:

“Timing of truck deliveries to the former Plains site to occur between the hours of 7 a.m. to 8 p.m. on weekdays and Saturdays only.”
4. **Appendix A, page 138:** Under **TRANS-9**, the word “assured” should be replaced with the word “provided,” as requested by the Committee and recorded in TN214732 page 10-12.

ALTERNATIVES

Page 8-4: Under bullet 1 at the top of the page, the second use of the word “infeasible” should change to “feasible” to be consistent with the FSA, page 6-16.

VISUAL RESOURCES

1. **Appendix A, page 147:** The word “monopoles” should be deleted from the clean version of **VIS-1**.
2. **Appendix A, page 147:** Under the first bullet describing the requirements of the Detailed Plan, the “s” shown in strikeout in “scaled site plans” should be removed from the clean version of **VIS-1**.
3. **Appendix A, page 148:** Under **Verification** for **VIS-1**, the following changes offered by Staff and agreed upon by Applicant should be included:

“The Plan elements pertaining to screening and enhancement of the CCGT units, **including the easternmost and middle screens**, shall be implemented within 12 months of demolition of **the HBGS** Units 1 and 2. The Plan elements pertaining to screening and enhancement of the simple-cycle gas turbine (SCGT) units shall be implemented within 12 months of beginning commercial operation of the SCGT units.”
4. **Appendix A, page 154:** The words “that” and “is” shown in strikeout in the last paragraph of **Verification** for **VIS-3** should be deleted from the clean version of the conditions of certification.

5. **Appendix A, page 156:** The number “60” shown in strikeout should be deleted from the clean version of Verification for **VIS-5**.