

## DOCKETED

|                         |   |
|-------------------------|---|
| <b>Docket Number:</b>   | 12-AFC-03   |
| <b>Project Title:</b>   | Redondo Beach Energy Project  |
| <b>TN #:</b>            | 205603  |
| <b>Document Title:</b>  | Ordinance No. 3134-15 - Prohibiting Construction or Modification of Electricity Generating Facilities |
| <b>Description:</b>     | N/A   |
| <b>Filer:</b>           | Jon Welner  |
| <b>Organization:</b>    | Jeffer Mangels Butler & Mitchell LLP  |
| <b>Submitter Role:</b>  | Intervenor Representative   |
| <b>Submission Date:</b> | 7/31/2015 1:59:58 PM  |
| <b>Docketed Date:</b>   | 7/31/2015   |

**ORDINANCE NO. 3134-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH  
ADOPTING LIMITATIONS ON ELECTRICITY GENERATING FACILITIES  
BY ADDING REDONDO BEACH MUNICIPAL CODE TITLE 10, CHAPTER 7 AND  
ADOPTING MODIFICATIONS TO TITLE 10, CHAPTERS 2 OF THE REDONDO BEACH  
MUNICIPAL CODE**

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH,  
CALIFORNIA, DOES ORDAIN AS FOLLOWS:

**SECTION 1. FINDINGS**

- A. Many Electricity Generating Facilities in California have historically been located in proximity to the ocean in order to allow the use of ocean water for cooling;
- B. The AES Electricity Generating Facility is within the City of Redondo Beach and was built prior to the enactment of the California Coastal Act in 1976, at a time when large Electricity Generating Facilities were commonly located near the ocean to utilize ocean water for cooling; and
- C. Under the California Coastal Act, industrial uses, including Electricity Generating Facilities, are a disfavored use and are encouraged only where the use is coastal dependent, meaning that the use requires a location on or near the ocean in order to be able to function, or where the use is directly supportive of other coastal-related uses, such as fishing or boating (Pub. Res. Code § §§ 30001.5(d), 30255, 30101, 30101.3); and
- D. In 2010 the State Water Resources Control Board adopted Resolution No. 2010-0020 (with amendments contained in Resolutions No. 2011-0033 and No. 2013-008) generally requiring Electricity Generating Facilities to stop using ocean water to cool their steam-turbine generating units throughout the State of California by 2020;
- E. The AES Electricity Generating Facility is located in the City of Redondo Beach and is incompatible with other existing and permitted uses in the Harbor-Pier area and adjoining areas of the City, and is a source of major visual blight, noise and air pollution that has discouraged economically beneficial new development and redevelopment in the City, the coastal zone, and the Harbor-Pier area; and
- F. The City is also undertaking major efforts to encourage redevelopment and revitalization of the Harbor/Pier area of the City's coastal zone for the benefit of City residents, visitors, and businesses; and
- G. Electricity Generating Facilities are a source of visual blight, noise, and air pollution, and such facilities are no longer coastal dependent and no longer need to be operated in dense urban areas;

- H. It is necessary to phase out existing land uses that no longer conform to the City's development policies and the priorities of the Coastal Act, in order to (1) protect the health, welfare, and safety of the Citizens of Redondo Beach, (2) prioritize coastal dependent uses near the ocean, and (3) to maximize long-term beneficial use of property within the City; and
- I. In December 2013 the City adopted a moratorium ordinance "on the approval of any conditional use permit, coastal development permit or any other discretionary City permit or approval for the construction, expansion, replacement, modification or alteration of any facility for the on-site generation of electricity on any property located within the coastal zone, as designated by the California Coastal Commission, within the City of Redondo Beach" (Ordinance 3116-13, and extended by Ordinance 3120-14);
- J. On April 30, 2015 and May 2, 2015 the City published notices for the Planning Commission's public hearing on long term regulatory changes to the City's Municipal Code and planning documents;
- K. On May 14, 2015 the Planning Commission held a duly noticed public hearing on the proposed modifications (continued to May 21, 2015) and provided recommendations to City Council as provided in Resolution 2015-05-PCR-006;
- L. The City acknowledges that the California Energy Commission has exclusive jurisdiction to certify Electricity Generating Facilities that fall within its jurisdiction, however the State Legislature has provided municipalities, such as the City of Redondo Beach, with the authority to create a regulatory conflict pursuant to Pub. Res. Code § 25525 (also referenced as a "LORS conflict"), which requires the California Energy Commission to adopt specific findings prior to approving an Electricity Generating Facility when a LORS conflict exists;
- M. By adopting Section 10-7.101 below, the City of Redondo Beach has created a LORS conflict which necessitates a finding, pursuant to Pub. Res. Code § 25525, that Electricity Generating Facilities are needed "for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity."

SECTION 2. Redondo Beach Municipal Code, Title 10, Chapter 7 ("Electricity Generating Facility Limitations"), Section 10-7.101 is hereby added as provided below. Additional language is shown in double underline.

**10-7.101 Electricity Generating Facility Limitations**

**(a) Purpose and findings. The City Council finds that the Power Plant built within the City of Redondo Beach was constructed at a time when large electrical generation plants were commonly located near the ocean in order to allow the**

use of ocean water for cooling of the generating facilities. The State Water Resources Control Board has adopted Resolution No. 2010-0020 generally requiring coastal power plants to stop using ocean water to cool their steam-turbine generating units throughout the State of California by 2020. This means that new plants do not need to be located near the coast and should instead be built away from populated urbanized areas. Power Plants are economically damaging to the City as a whole and harmful to the public health, welfare and safety. The City of Redondo Beach has serious concerns about the lasting negative impacts on the health, safety and welfare of the community for generations to come that would result from building a new power plant that will likely run more often than the existing plant currently does. Given that such facilities no longer need to be located in proximity to the ocean, and the adverse effects of such facilities described above, the City desires to prohibit (1) the construction of all new Electricity Generating Facilities of 50 megawatts or more in the City of Redondo Beach, (2) modifications, including alteration, replacement or improvement of equipment, that result in a 50 megawatt or more increase in the electric generating capacity of an existing Electricity Generating Facility, and (3) construction of any facility subject to the California Energy Commission's jurisdiction under Public Resources Code Section 25502.3.

(b) Definitions. The following terms and phrases, whenever used in this chapter, shall be construed as defined in this section. The rules for construction of language, contained in Section 10-2.401, are also applicable to this Section.

- (1) "Electricity Generating Facility" shall mean any stationary or floating electrical generating facility using any source of thermal energy and any facilities appurtenant thereto.

(c) Prohibition on Electricity Generating Facilities. There is a prohibition on all property in the City of Redondo Beach on: (1) the construction of all new Electricity Generating Facilities of 50 megawatts or more, (2) modifications, including alteration, replacement or improvement of equipment, that result in a 50 megawatt or more increase in the electric generating capacity of an existing Electricity Generating Facility, and (3) construction of any facility subject to the California Energy Commission's jurisdiction under Public Resources Code Section 25502.3. No permit or any other applicable license or entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the establishment, maintenance or operation of an Electricity Generating Facility within the City limits of Redondo Beach that falls within this prohibition.

SECTION 3. Redondo Beach Municipal Code, Title 10, Chapter 2 (Zoning), Section 10-2.402(a)(128) is amended as provided below. Additional language is shown in double underline, and deletions are shown in ~~strikeout~~. Where existing intervening text, subsections, or sections have been omitted from this ordinance and are not specifically deleted, they shall not be considered amended or deleted and should therefore be considered retained in their current state (such language may be displayed as "...")

...

(128) **"Public utility facility"** shall mean a building or structure used or intended to be used by any public utility including, but not limited to, (1) any gas treatment plant, (2) reservoir, tank or other storage facility, (3) water treatment plant, well, reservoir, tank or other storage facility, (4) ~~e-Electricity g-Generating Facilities~~ (except for those prohibited by Title 10, Chapter 7)-plant, (5) distribution or transmission substation, (6) telephone switching or other communications plant, earth station or other receiving or transmission facility, (7) any storage yard for public utility equipment or vehicles and any parking lot for parking vehicles or automobiles to serve a public utility. The term "public utility" shall include every gas, electrical, telephone and water corporation serving the public or any portion thereof for which a certificate of public convenience and necessity has been issued by the State Public Utility Commission.

SECTION 5. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 6. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in the Easy Reader, the official newspaper of said City, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED, AND ADOPTED this 7<sup>th</sup> day of July 2015.

\_\_\_\_\_  
Steve Aspel, Mayor

ATTEST:

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )     SS  
CITY OF REDONDO BEACH     )

I, Eleanor Manzano, City Clerk of the City of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. O-3134-15 was duly introduced at a regular meeting of the City Council held on the 30<sup>th</sup> day of June, 2015, and was duly approved and adopted by the City Council at a regular meeting of said City Council held on the 7<sup>th</sup> day of July 2015, by the following vote:

AYES:        BRAND, HORVATH, SAMMARCO

NOES:        NONE

ABSENT:     EMDEE

ABSTAIN:    GINSBURG

Eleanor Manzano  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

Michael W. Webb  
Michael W. Webb, City Attorney

This is certified to be a true and correct copy of the original on file in this office, consisting of pages 1 through 5.

DATED: 7/28/15

ATTEST: Eleanor Manzano

City Clerk of the City of Redondo Beach, State of California

Respectfully State of California  
the Clerk of the City of Los Angeles  
ATTEST: *[Signature]*  
DATED: *1/15/12*  
of books in this office containing  
and correct copy of the original  
This is certified to be a true

RECORDED AND INDEXED  
BY: *[Signature]*  
DATE: *1/15/12*

*[Signature]*

RECORDED AND INDEXED  
BY: *[Signature]*  
DATE: *1/15/12*

RECORDED AND INDEXED  
BY: *[Signature]*  
DATE: *1/15/12*

RECORDED AND INDEXED  
BY: *[Signature]*  
DATE: *1/15/12*

RECORDED AND INDEXED  
BY: *[Signature]*  
DATE: *1/15/12*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*

*[Signature]*