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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

Docket No. 12-AFC-02

Application for Certification for the
HUNTINGTON BEACH ENERGY PROJECT

ENERGY COMMISSION STAFF'S PRE-HEARING CONFERENCE STATEMENT

On June 9, 2014, the Committee assigned to this proceeding issued a Notice of Prehearing Conference and Evidentiary Hearing, Scheduling Order, and Further Orders (Notice). In that document, the Committee requested that parties file Prehearing Conference Statements no later than July 7, 2014. Energy Commission staff hereby files the following in response to the information requested in the Notice.

Staff has completed its analysis in all subject areas and is ready to proceed to evidentiary hearings set for July 21, 2014. Staff has concluded that, with the conditions of certification and related impact mitigation proposed in the Final Staff Assessment (FSA), no significant adverse impact to the environment or public health will result from the construction or operation of the Huntington Beach Energy Project (HBEP), and that the proposed project will comply with all applicable laws, ordinances, regulations and standards.

Staff has received the applicant's testimony, as well as the document filed by Intervenor Rudman on June 30, 2014. Based on a review of the documents received thus far, staff believes that there

remains disagreement in several technical areas: Air Quality, Biological Resources, Cultural Resources, Hazardous Materials, Visual Resources, Waste Management, and Compliance.

1. The issues that are complete and ready to proceed to hearing.

For those matters not subject to dispute by the applicant or the intervenor, staff proposes to enter testimony into the record by declaration. The testimony and the respective authors are identified below and declarations have been included in the FSA:

Executive Summary	Felicia Miller
Introduction.....	Felicia Miller
Project Description.....	Felicia Miller
Public Health.....	Huei-An (Ann) Chu
Socioeconomics	Lisa Worrall
Traffic and Transportation	Jonathan Fong
Transmission Line Safety and Nuisance.....	Obed Odoemelam, Ph.D.
Facility Design.....	Edward Brady
Geology and Paleontology	Casey Weaver, CEG
Soil and Water Resources	Mike Conway
Power Plant Efficiency	Shahab Khoshmashrab
Noise and Vibration	Shahab Khoshmashrab
Transmission System Engineering.....	Laiping Ng and Mark Hesters
Worker Safety and Fire Protection	Geoff Lesh
Alternatives	Negar Vahidi / Scott Debauche

2. The issues that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefore.

All issues are ready to proceed to evidentiary hearing.

3. The issues that remain disputed and require adjudication, and the precise nature of the disputes for each issue.

a. Air Quality

Staff and applicant are in agreement regarding the conclusions in the Air Quality section of the FSA, and are in agreement with the proposed Conditions of Certification. Staff and applicant are not in agreement regarding HBEP air quality impacts resulting from construction, and the timing of the air quality improvements that might result from applicant-provided Rule 1304.1 fees. Staff agrees with the applicant's proposed changes to Condition of Certification AQ-SC6 as follows:

~~“AQ-SC6 During the construction phase of this project, the project owner shall conduct a local street sweeping program to provide at least 8.26 lbs/day PM10 and 0.79 lbs/day PM2.5 of emissions reductions. The project owner shall provide, for approval, a Construction Particular Matter Mitigation Plan (CPMMP) that details the steps to be taken and the reporting requirements necessary to ensure the implementation of the local street sweeping program.~~ **provide the equivalent of at least 8.26 lbs/day PM10 and 0.79 lbs/day PM2.5 of emissions reductions during the construction phase of the project. Construction emission reduction measures can include: localized street sweepers or programs; local ban of leaf blowing or blowers; sodding of local parks or playfields; fireplace or woodstove replacements; offsets or emission reduction credits; or other measures that can provide local emission reductions coincident with construction emissions.**

Verification: At least 90 days prior to the start of any ground disturbance, the project owner shall submit the CPMMP to the CPM for approval. The CPM will notify the project owner of any necessary modifications to the plan within 30 days from the date of receipt. The CPMMP must be approved by the CPM before the start of ground disturbance. During construction the project owner shall provide the records of the sweeping ~~program~~ **CPMMP** in the Monthly Compliance Report. ”

b. Biological Resources

Staff and applicant are in agreement regarding the conclusions in the Biological Resources section of the FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS). Staff generally accepts applicant's changes to BIO-2, BIO-5, and BIO-8, and will propose revisions to clarify the intent of these conditions of certification. Staff proposes to retain most of the language to BIO-9, and will propose revisions to clarify the intent of the recommended noise levels

c. Cultural Resources

Staff and applicant are in agreement regarding the conclusions in the Cultural Resources section of the FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS). Staff and applicant are in agreement regarding proposed Conditions of Certification CUL-3 through CUL-5, CUL-7, and CUL-8.

In the applicant's Opening Testimony and Comments on the FSA filed June 30, 2014, applicant recommended specific deletions and additions to Conditions of Certification CUL-1 and Cul-2. Staff is amenable to the following changes:

CUL-1 - "Approval of a CRS may be denied or revoked for reasons including, ~~but not limited to,~~ non-compliance on this or other Energy Commission projects and for concurrent service as CRS on an unmanageable number of Energy Commission projects, as determined by the CPM. After all ground disturbances is completed and the CRS has fulfilled all responsibilities specified in these cultural resources conditions, the project owner may discharge the CRS, after receiving approval from the CPM.

~~The staff recommended conditions described in this subsection of the FSA shall continue to apply during operation of the proposed power plant."~~

CUL-2 - "Verification:

~~5. Monthly, during ground disturbance, email progress report to the CPM, interested Native Americans and other interested parties.~~

~~7. At least 10 days prior to a termination or release of the CRS, or **If a new CRS is approved by the CPM as provided for in CUL-1,** or within 10 days after the resignation of a CRS, the project owner shall provide the~~

CPM notice that the AFC, data responses, confidential cultural resources documents, all supplements, FSA, Final Commission Decision, and maps and drawings have been provided to the new CRS **within 10 days of such approval.**

Staff and the applicant are not in agreement regarding the replacement of CUL-6 as proposed by the applicant. As originally proposed by staff, this condition of certification directs attention to those construction areas that have potential to encounter archaeological resources, and contains reporting requirements that scale the level of monitoring effort to the duration of construction in these specific areas and the finds (or lack thereof) made during construction.

Staff is, however, amenable to modifying CUL-6 based on information provided by applicant in their opening testimony. The historical photographs submitted by the applicant on June 23, 2014 indicate that construction of the existing Huntington Beach Generating Station entailed excavation at the location of proposed Power Block 2 (present Units 3 and 4) that was deeper than indicated by the applicant's information. In light of this information, staff concludes that archaeological monitoring of project activities in the Power Block 2 is not necessary. Staff will propose revisions to strike the monitoring requirements for Block 2 CCGT/HRSG foundation slab, Block 2, two easternmost transformer foundations, Block 2 STG foundation, and Block 2 ACC pile caps.

d. Hazardous Materials

Staff and applicant are in agreement regarding the conclusions in the Hazardous Materials section of the FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS) and will not result in significant adverse impacts to the environment. However, applicant proposes striking the inclusive term "any hazardous material" from HAZ-6 and replacing it with the specific term "aqueous ammonia," a change that staff believes is not supported by the evidence, which is inclusive of hazardous materials other than aqueous ammonia. Staff and applicant are therefore not in agreement regarding applicant's proposed change to HAZ-6.

e. Noise and Vibration

It does not appear that there are any disputed issues remaining in the technical area of Noise and Vibration. The applicant has proposed minor changes to conditions of certification NOISE-2, NOISE-4, and NOISE-7. Staff agrees with these proposed changes as follows:

NOISE-2 – “Verification: Within five days of receiving a **legitimate** noise complaint, the project owner shall file with the CPM a Noise Complaint Resolution Form, shown below, that documents the resolution of the complaint. If mitigation is required to resolve the complaint, and the complaint is not resolved within a three business-day period, the project owner shall submit an updated Noise Complaint Resolution Form when the mitigation is implemented.”

NOISE-4 – “The project design and implementation shall include appropriate noise mitigation measures adequate to ensure that the operation of the project will not cause the noise levels due to normal steady-state plant operation alone, to exceed an hourly average of 61 dBA **L₅₀** L_{eq}, measured at or near monitoring location M2.

Also, the project design and implementation shall include appropriate noise mitigation measures adequate to ensure that the operation of the project will not cause the noise levels due to plant operation alone, during the four quietest consecutive hours of the nighttime, to exceed an average of 45 dBA L₉₀ measured at or near monitoring location M3 and an average of 49 dBA L₉₀ measured at or near monitoring location M4.

No new pure-tone components (as defined in **Noise Table A1**) shall be caused by the project. No single piece of equipment shall be allowed to stand out as a source of noise that draws legitimate complaints.

When the project first achieves a sustained output of 85 percent or greater of its rated capacity, the project owner shall conduct a 25-hour community noise survey at monitoring locations M2, M3 and M4, or at a closer location acceptable to the CPM and include **L₅₀** L_{eq} and L₉₀ readings. This survey shall also include measurement of one-third octave band sound pressure levels to ensure that no new pure-tone noise components have been caused by the project.”

NOISE-7 – “If a traditional, high-pressure steam blow process is used the project owner shall equip steam blow piping with a temporary silencer that

quiets the noise of steam blows to no greater than 89 dBA measured at a distance of 50 feet. The steam blows shall be conducted between 8:00 a.m. and ~~6:00-5:00~~ p.m. **A new high-pressure steam blow shall not be initiated after 5:00.** If a low-pressure, continuous steam blow process is used, the project owner shall submit to the CPM a description of the process, with expected noise levels and planned hours of steam blow operation.”

f. Soil and Water Resources

It does not appear that there are any disputed issues remaining in the technical area of Soil and Water Resources. Staff and applicant are in agreement regarding the conclusions in the Soil and Water section of the FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS) and will not result in significant adverse impacts to the environment.

In their Opening Testimony filed June 30, 2014, applicant offered clarifications in regards to Soil and Water Resources. CEC staff agrees with the following corrections:

On pages 4.9-2 and 4.9-22, reference to “115 AFY” should be changed to “**134 AFY.**”

On pages 4.9-5, 4.9-11, 4.9-12, 4.9-13, and 4.9-26, reference to SWCRB Order “R8-2010-0062” should be corrected to “**R8-2006-0011.**”

g. Visual Resources

Staff and applicant are not in agreement regarding Visual Resources, specifically the underlying analysis and conclusions regarding the impacts to visual resources at KOP-4 and KOP-5, impacts to visual resources from the demolition and construction activities at the project site, impacts to visual resources from lighting during demolition, construction, and operation, and the project’s cumulative effects. Staff also opposes some of the proposed changes to the conditions of certification including, but not limited to, the deletion of the California Coastal Commission’s role in reviewing and commenting on certain aspects of the project post-approval. Staff will provide revisions to the conditions of certification.

h. Waste Management

Staff and applicant are in agreement regarding the conclusions in the Waste Management section of the FSA that the project will comply with all applicable laws, ordinances, regulations, and standards (LORS) and will not result in significant adverse impacts to the environment. Staff opposes any proposed changes to the conditions of certification WASTE-1 and WASTE-2 as proposed by applicant, as those changes improperly remove the Energy Commission's Compliance Project Manager's oversight of remediation activities taking place on the project site.

i. Compliance Conditions

Staff and applicant are in agreement with the Compliance conditions of certification, with exception of conditions COM-13 and COM-15. Staff does not agree to the proposed changes to those conditions of certification because the changes are not supported by the underlying testimony.

4. The identity of each witness that the party intends to sponsor, the subject area(s) about which the witness(es) will testify, a brief summary of the testimony to be offered by the witness(es), qualifications of each witness, the time required to present testimony by each witness, and whether the witness seeks to testify telephonically.

For Air Quality, staff requests 15 minutes to present the direct testimony of staff's expert witness, Tao Jiang, Ph. D., P.E., and David Vidaver. Their written testimony and statements of their qualifications are contained in the FSA (Exh. 2000). In support of this testimony, staff will offer into evidence the Final Determination of Compliance submitted by the South Coast Air Quality Management District (Exh. 2001).

For Biological Resources, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Jennifer Lancaster and Scott D. White. Their written testimony and statements of their qualifications are contained in the FSA (Exh. 2000).

For Cultural Resources, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Gabriel Roark and Melissa Mourkas. Their written testimony and statements of their qualifications are contained in the FSA (Exh. 2000).

For Hazardous Materials, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Geoff Lesh, P.E.. His written testimony and statements of his qualifications are contained in the FSA (Exh. 2000).

For Visual Resources, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Jeanine Hinde. Her written testimony and statements of her qualifications are contained in the FSA (Exh. 2000).

For Waste Management, staff requests 15 minutes to present the direct testimony of staff's expert witnesses, Ellen Townsend-Hough. Her written testimony and statements of her qualifications are contained in the FSA (Exh. 2000).

For Compliance, staff requests 15 minutes to present the direct testimony of staff's expert witness, Eric Veerkamp. His written testimony and statements of his qualifications are contained in the FSA (Exh. 2000).

5. Subject areas upon which the party desires to question the other parties' witness(es), a summary of the scope of the questions (including witness qualifications), the issue(s) to which the questions pertain, and the time desired to question each witness.

For Air Quality, staff requests to reserve up to 30 minutes to cross examine applicant's Air Quality experts, Jerry Salamy and Stephen O'Kane, specifically as to the level to which air quality impacts resulting from construction and operation will be reduced to less-significant levels and the manner in which such reductions can or cannot be accomplished.

For Biological Resources, staff requests to reserve up to 30 minutes to cross examine applicant's Air Quality experts, Mark Bastasch, P.E., INCE, CWRE, and Robert J . Dooling, Ph.D., specifically as to noise impacts to birds.

For Cultural Resources, staff requests to reserve up to 30 minutes to cross examine applicant's Cultural Resources Expert, Clint Helton, specifically regarding the potential to impact buried archeological resources.

For Visual Resources, staff requests to reserve up to 30 minutes to cross examine applicant's Visual Resources Expert, Thomas Priestly, Ph.D., AICP/ASLA, specifically as to his analysis and conclusions with respect to KOP-4 and KOP-5, project lighting, cumulative impacts, and consistency with LORS.

6. A list identifying exhibits with transaction numbers (TN) that the party intends to offer into evidence and the technical subject areas to which they apply.

Exh. 2000	TN 202405	Final Staff Assessment
Exh. 2001	TN (pending)	Final Determination of Compliance submitted by the South Coast Air Quality Management District

7. Proposals for briefing deadlines, impact of scheduling conflicts, or other scheduling matters.

Staff is informed and believes that the Final Determination of Compliance will be submitted by the South Coast Air Quality Management District on or about July 18, 2014. If in the event that the submission of the FDOC is delayed beyond the date of the evidentiary hearing on in this matter, staff would request that the evidentiary record be held open to receive the FDOC.

Staff respectfully reserves the right to augment the proposed exhibit list and the time requested for direct or cross-examination depending on the testimony filed by the applicant and any other

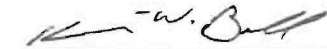
parties, their Prehearing Conference Statements, and comments made at the Prehearing Conference.

Staff recommends that the Committee allow for the filing of Errata prior to the close of the evidentiary record.

Should any matter need briefing after evidentiary hearings, assuming the transcript is expedited, staff proposes that Opening Briefs and Reply Briefs be filed as currently scheduled.

DATED: July 7, 2014

Respectfully submitted,



KEVIN W. BELL
Senior Staff Counsel
California Energy Commission
1516 9th Street
Sacramento, CA 95817
Ph: (916) 654-3855
email: Kevin.W.Bell@energy.ca.gov