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**In a Proceeding Before the
STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission**

In the Matter of:

HUNTINGTON BEACH ENERGY
PROJECT

Docket No. 12-Afc-02

MONICA RUDMAN'S REBUTTAL TO OPENING BRIEFS

The Committee for the Huntington Beach Energy Project (HBEP) directed all parties to file rebuttal briefs no later than August 25, 2014. In accordance with the Siting Committee's direction, I respectfully submit the following rebuttal brief.

The Coastal Commission's Report and Land Use; Biological Resources; and Soil and Water Resources Recommendations Must be Included into the Evidentiary Record

I woke up yesterday morning to the sad news of a destructive earthquake in Napa Valley, an event that led to ruptured gas lines followed by fires. It is a heartbreaking wake up call that the destructive power of geological hazards must be considered when siting new energy facilities. This is particularly important for the HBEP since it will use 8,418 mmbtu per hour of natural gas (Exh.1139 p.18), would be in a Methane Overlay District (Exh. 2000 p. 5.2-1), and would be located within a few hundred feet of the South Branch of the Newport Inglewood Fault (which may very well be active) and 0.6 miles from the North Branch of the Newport Inglewood Fault (which is active).

The Coastal Commission Report, dated July 14, 2014, makes it clear that the site is subject to severe hazards during the expected operating life of the project. These hazards include seismic events, floods, tsunami, and sea level

rise. They cite several laws, including the Coastal Act's Chapter 3 resource protection and use policies and Huntington Beach's certified local coastal program (LCP), that seek to protect the public from the hazards. The Coastal Commission says that given the "role of the site in providing grid support" that they are providing specific provisions that would allow the proposed project to be consistent "to the extent feasible" with the relevant policies. However, it is not appropriate for them to make a finding on the need for a power plant. Never the less, it is noteworthy that they do not say that the health and safety of the public is protected with their proposed conditions.

The Committee has an obligation to protect the health and safety of the public. There is a substantial record on which to build a case that HBEP does not comply with the laws and policies of the Coastal Act and the LCP. There are not feasible mitigations that can eliminate the risks to the public. The Committee should deny the HBEP. Natural gas-fired energy facilities should be located on less hazardous sites. Huntington Beach residents deserve to live in a location with the highest standards of safety.

In its opening testimony, the Applicant advises the Committee to not give deference to the Coastal Commission assessment and recommendations, including additional conditions of certification. Energy Commission staff also questions whether the Committee should include the report into the record. I, however, believe that the Coastal Commission's assessments and recommendations should become part of the record. Since the extent of the Coastal Commission's role is open to debate, I am proposing a solution. I am by

this declaration making a motion to incorporate the Coastal Commission's report dated July 14, 2012 as part of my rebuttal testimony. In addition, I am asking the Committee to consider the Coastal Commission's Land Use; Biological Resources; and Soil and Water Resources recommendations as equivalent to being my recommendations. Since as an Intervenor, the Committee is obligated to consider my recommendations, we can side step the debate and move affirmatively to help protect the public.

The Particulate Impacts from the HBEP are Significant and are not Mitigated to a Less than Significant Level by AQ-SC6

All parties agree that emissions from construction are significant. Staff originally proposed that the applicant should sweep streets and neighborhoods to mitigate impacts. Now, the applicant and staff agree to a revised compliance condition that specifies that a plan should be provided for compliance manager approval (CPM) to mitigate construction particulates would be adequate to reduce the impacts to a less than significant level. The exact plan is to be determined but ideas to reduce particulates include actions such as a local ban of leaf blowing. I disagree that this reduces impacts to a less than significant level. A plan cannot mitigate impacts. Also, the proposed mitigation measures would not be able to mitigate the impacts occurring across the street from the HBEP at the beach. Further, as a principle, the burden of mitigation should not be imposed on local residents.

Staff's Statement on Page 4 of their Opening Brief should not be Considered.

During the evidentiary hearing I was instructed by the hearing officer that the purpose of the hearing was to bring in information that was additional to what was already submitted into the record. I had already submitted opening testimony providing evidence of HBEP's non-compliance with LORS and of significant air quality impacts. I was clearly instructed that this was already part of the record. Whether I asked the South Coast Management District representative questions or not is irrelevant.

The Applicant's Opening Brief Included yet Another Revision of Compliance Conditions and the Time to Review the Changes is Inadequate.

I saw the applicant's 34 page revised compliance conditions attachment for the first time when the opening brief was filed. Since staff mentioned in its brief that it agrees to the compliance condition's revisions, it must have had an opportunity to see them. The conditions were not shared with me in advance. I would like additional time to review and comment on them.

Compliance Conditions Should Adhere to Certain Principles

Compliance conditions should mitigate the impacts and not be plans to mitigate impacts. Conditions should result in measureable and verifiable effects and be assessed by qualified experts. Further, it is unfair to the public and a circumvention of the process to allow compliance conditions that will be adopted by the discretion of the CPM (who most likely will not be a subject matter expert

on all facets of the issues) and which can be modified by the CPM at his/her discretion.

Respectfully submitted,

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