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<th><strong>Docket Number:</strong></th>
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<td><strong>Project Title:</strong></td>
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<td>City of Redondo Beach - Status Report - 06/04/15</td>
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<td><strong>Filer:</strong></td>
<td>Jon Welner</td>
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<td><strong>Organization:</strong></td>
<td>Jeffer Mangels Butler &amp; Mitchell LLP</td>
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<td><strong>Submitter Role:</strong></td>
<td>Intervenor Representative</td>
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STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

REDONDO BEACH ENERGY PROJECT
APPLICATION FOR CERTIFICATION

Docket No. 12-AFC-03

INTERVENOR CITY OF REDONDO BEACH'S
STATUS REPORT

June 4, 2015

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Attorneys for Intervenor CITY OF REDONDO BEACH
STATE OF CALIFORNIA
California Energy Commission

In the Matter of:

REDONDO BEACH ENERGY PROJECT
APPLICATION FOR CERTIFICATION

Docket No. 12-AFC-03

INTERVENOR CITY OF REDONDO BEACH'S
STATUS REPORT

I. PSA WORKSHOP

Intervenor City of Redondo Beach ("City") participated in the Preliminary Staff Assessment ("PSA") Workshop on May 20-21. The City made presentations on the following topics: Land Use, Air Quality, Noise, and Alternatives. The City has filed these presentations with the Commission.

II. PSA COMMENTS

In addition to the presentation materials, the City plans to file written comments on the following topics: Air Quality, Noise, Biological Resources, Visual Resources, and Water. (Comments on Visual Resources will be submitted after AES has produced the Site Screening and Landscape Concept Plan, requested by Staff.)

The City notes there are several items requested from AES by Staff which have not yet been produced. These include: the Site Screening and Landscape Concept Plan; Air Quality Cumulative Modeling; and Health Risk Assessment Modeling. It appears these materials will not be produced until after the PSA comment deadline of June 4. If that is the case, the City hereby requests that Intervenors be given a reasonable period of time after the materials are produced to review them and submit written comments to the Commission; and that Staff be given a reasonable period of time to review these comments and incorporate them into the Final Staff Assessment ("FSA").
III. AQMD HEARING

The South Coast Air Quality Management District ("AQMD") has announced that it will hold a public hearing on the proposed RBEP before it considers whether to issue a Final Determination of Compliance ("FDOC") for the Project. The City will participate in the public hearing.

The City hereby requests that preparation of the Air Quality portion of the FSA be suspended until after AQMD conducts the public hearing and makes a decision on whether to issue an FDOC. The City further requests that when AQMD makes its decision on the FDOC, that Intervenors be granted a reasonable period of time to review the decision and submit comments to the Commission; and that Staff be given a reasonable period of time to review these comments and incorporate them into the Final Staff Assessment ("FSA").

IV. COASTAL COMMISSION REPORT

The Coastal Commission has stated that it expects to issue its report on the RBEP at its regularly scheduled meeting on July 8-10, 2015. The City hereby requests that Intervenors be given a reasonable period of time after the Coastal Commission Report is issued to review the Report and submit written comments to the Energy Commission; and that Staff be given a reasonable period of time to review these comments and incorporate them into the Final Staff Assessment ("FSA").

V. NOISE DATA

At the PSA Workshop, AES told Commission Staff and the City that it is willing to produce the technical data on which its noise analysis is based:

**Wheatland:** And the answer is yes, in fact, the technical data that supports the AFC, the Application for Certification that was filed several years ago, has been available at all times for public review, for a party that requests it. And the City of Redondo Beach is certainly aware, it did numerous data requests, and certainly copies could have been requested at that time, and if it is requesting it at this time, we can provide it to you now. This is not, I don't want you to raise implications that this information has been withheld. It has always been available, it is has been made available to staff, and has been made available to anyone who requests it.

See Exhibit A below (Transcript from PSA Workshop).
Immediately after the PSA workshop, AES changed its tune. The City requested the data, and AES responded that the technical data does not exist and cannot be produced:

At the workshop I agreed to provide you with the noise analysis prepared by the Applicant in support of this AFC.

As I indicated in my earlier email, the type of “technical noise analysis” described by the City at the workshop and in your email below…is not available prior to June 4.

... [T]he Applicant has not yet performed the type of detailed acoustical design and equipment specification study described by the City at the PSA Workshop.

See Exhibit B below (Correspondence with AES Counsel).

There are two possibilities. Either: (1) AES is refusing to provide the technical data underlying its noise analysis; or (2) such technical data does not exist. Neither possibility is acceptable. If AES is refusing to provide the technical data, the Committee should require that it be produced. (The City will be filing a motion with the Committee to require AES to produce the data. See Section VII below.) If the technical data does not exist, that means that AES’ noise analysis has no scientific basis and cannot be accepted by the Commission as evidence that: (1) the Project will not cause significant noise impacts; or (2) the Project can comply with the City’s noise ordinance.

The City has retained the acoustics consulting firm Charles M. Salter Associates Inc. ("Salter") to conduct research on the potentially significant noise impacts that will be generated by the proposed RBEP. The City will keep the Commission apprised of this research and will submit the results to the Commission as expeditiously as possible.

VI. **LORS CONFLICT**

On May 21, 2015, the City Planning Commission unanimously approved an ordinance that would prohibit the construction or modification of any electricity generating power plant that is subject to CEC jurisdiction. The City Council will consider this ordinance at its regularly scheduled meeting on June 16, 2015.

VII. **MOTIONS**

The City is preparing to file three motions with the Committee in the near future:
1. **Motion to Amend Schedule.** As described above, a number of significant developments will occur after the PSA comment deadline of June 4. These include: AQMD’s public hearing and decision on the FDOC; issuance of the Coastal Commission Report; and AES’ production of new analyses on visual impact, air quality, and public health. The City will file a motion asking the Committee to amend the current schedule to give Intervenors a meaningful opportunity to review and comment on these developments.

2. **Motion to Require Production of AES Noise Data.** As discussed in Section V above, the City will file a motion to require AES to produce the technical data underlying its noise analysis.

3. **Motion to Subpoena Information from Southern California Edison ("SCE") or the Public Utilities Commission ("PUC").** As part of the Long Term Procurement Process ("LTPP"), SCE recently received numerous bids for proposed sites to construct gas-fired power plants in the Los Angeles Basin. Unfortunately, the location of these sites has been redacted from the public documents filed by SCE. The City will file a motion asking the Committee: (1) to request that a list of these sites be produced by SCE or the PUC; and (2) if necessary, to issue a subpoena for this information.

DATED: June 4, 2015

JEFFER MANGELS BUTLER & MITCHELL LLP

By: [Signature]

JON WELNER

Attorneys for Intervenor CITY OF REDONDO BEACH
EXHIBIT A

Transcript from PSA Workshop of AES Offer to Provide Noise Study Technical Data

Webex Recording
May 20, 2015

(04:29:21)

Welner: Finally I have a question back to AES which is something that was asked in a number of places by our consultant and –actually this really surprised me—and that is that no one from the public, no intervenor, and no one from the Commission has seen the technical study. What they have seen is the description of the study obtained from AES. Our question to AES is: will you provide the study for public review, and if not, why not?

(4:29:59)

Wheatland: And the answer is yes, in fact, the technical data that supports the AFC, the Application for Certification that was filed several years ago, has been available at all times for public review, for a party that requests it. And the City of Redondo Beach is certainly aware, it did numerous data requests, and certainly copies could have been requested at that time, and if it is requesting it at this time, we can provide it to you now. This is not, I don't want you to raise implications that this information has been withheld. It has always been available, it is has been made available to staff, and has been made available to anyone who requests it.

(4:30:40)

Welner: Well, we're very glad to hear that, because we are requesting it.
EXHIBIT B

Correspondence with AES Counsel Regarding Noise Study Technical Data
Mr. Welner:

At the workshop I agreed to provide you with the noise analysis prepared by the Applicant in support of this AFC.

As I indicated in my earlier email, the type of “technical noise analysis” described by the City at the workshop and in your email below is prepared prior to the start of construction (as it has been for every other power plant licensed by the Commission). The type of analysis you refer to is not available prior to June 4.

Gregg Wheatland
Ellison, Schneider & Harris L.L.P.

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Does AES or CH2M Hill have this data? Can you provide it to us prior to June 4?

Thanks,

jw

Jon Welner | Partner
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VCARD | BIO | BLOG | TWITTER | LINKEDIN

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From: Greggory L. Wheatland [mailto:glw@eslawfirm.com]
Sent: Tuesday, June 02, 2015 11:47 AM
To: Welner, Jon
Cc: Samantha Pottenger; Jeffery Harris; Stephen O'Kane
Subject: Noise Study

Mr. Welner:

The following information is provided in response to your request for the Applicant’s “Noise Study”.

We are providing a copy of the Noise Section of the AFC and related Appendices. We are also providing copies of Data Responses to the Staff and the City regarding noise. Data Response Set 1A is too large to attach; therefore, please refer to this link:

http://docketpublic.energy.ca.gov/PublicDocuments/12-AFC-03/TN201167_20131112T144549_RBEP_12AFC03_DR_Set_1A_17_1112_1419_2425_2947.pdf

Consistent with established CEC protocols and typical project development and design processes, the Applicant has not yet performed the type of detailed acoustical design and equipment specification study described by the City at the PSA Workshop. Instead, as we explained in response to Staff Data Request 30, “Prior to the start of construction, the Project Owner’s engineering contractor will determine the necessary acoustical design treatments to ensure that the City of Redondo Beach noise standards are satisfied.” The expected project operational noise level at the closest residence on N. Elena Avenue is less than 55 dBA. A project level of 55 dBA complies with the applicable City of Redondo Beach noise limitations at this location, and, following the assessment methodology used by the CEC as proposed by Charles Salter, will also comply with the indoor noise limitations at this location.

 Gregg Wheatland
 Ellison, Schneider & Harris L.L.P.

2600 Capitol Avenue, Suite 400
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I am in receipt of your request and I have forwarded it to AES.

Gregg Wheatland
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Gregg,  
I am writing to follow up on your offer during the workshop to provide a copy of the noise study performed by your consultants for the RBEP. Please let me know how I can obtain it.  

Have a nice holiday weekend!

jw

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