

## DOCKETED

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**VIA ELECTRONIC FILING**

June 4, 2015

Karen Douglas, Presiding Member  
Janea A. Scott, Associate Member  
Redondo Beach Energy Project  
AFC Committee California Energy Commission  
1516 Ninth Street  
Sacramento, California 95814

**Re: Redondo Beach Energy Project (Docket No. 12-AFC-03)—Comments on Biological Resources Section of Preliminary Staff Assessment and Response to AES' Request to Revise-Coastal Commission Wetland Determination**

Dear Commissioners Douglas and Scott:

On behalf of the City of Redondo Beach ("City"), PCR Services Corporation ("PCR") submits the following comments on the Biological Resources Section of the Preliminary Staff Assessment ("PSA") for the Redondo Beach Energy Project ("RBEP"). These comments also constitute the City's response to AES' Request to Revise the California Coastal Commission's Wetlands Determination, filed on May 13, 2015.

In the PSA, Staff determined that construction of the RBEP will result in direct impacts to 5.93 acres of wetlands in the Coastal Zone, and that these impacts require at least 17.79 acres of mitigation.

AES has now submitted a request to revise Staff's determination by making an unsupported claim that the on-site wetlands are man-made, and, thus, are not subject to the required mitigation ratios, set forth in the Coastal Commission's regulations, and corresponding Restoration Program Fund.

As explained below, based on PCR's analysis, the City strongly urges the Commission to reject AES' request and to require the mitigation set forth in the PSA.

**I. THE COASTAL COMMISSION'S WETLANDS DELINATION REQUIRES ONLY THAT A SINGLE PARAMETER EXIST TO ESTABLISH WETLAND CONDITIONS**



The Coastal Commission's regulations (California Code of Regulations ("CCR") Title 14) establish a "one -parameter definition" that requires evidence of a **single parameter** to establish wetland conditions:

"Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats."

(14 CCR § 13577.)

The Coastal Commission's one -parameter definition provides that wetlands need only have one or more of the following three attributes: (a) at least periodically the land supports predominantly hydrophytes; (b) the substrate is predominantly undrained hydric soil; and (c) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. (*Id.*)

In the PSA, Staff determined that the construction of the Project would result in direct impacts to approximately 5.93 acres of wetlands that fall within Coastal Commission jurisdiction. This determination was based on a site visit with Coastal Commission staff on January 22, 2014. The Coastal Commission requires a minimum of 3:1 mitigation for impacts, for a total of 17.79 acres of wetland mitigation required in an area and/or program yet to be determined. (PSA at p. 4.3-27.) The PSA further states that the Coastal Commission might require a higher ratio for mitigation." (*Id.*; see also, Restoration Program Funding on p. 4.3-47 of the PSA.)

## **II. AES' CLAIM THAT THE PREVIOUSLY IDENTIFIED WETLANDS ARE MAN-MADE IS UNSUPPORTED BY EVIDENCE**

AES now submits a request to revise the Energy Commission and Coastal Commission staff's wetlands determination. For the reasons provided below, AES' Request is not based on any substantial data and is speculative at best.



AES concludes that there has been a three to four foot increase in the groundwater table due to the "system's pump failure" that has, in turn, created hydric soils. AES claims that the pump failure can be attributed to two malfunctioning pumps in the groundwater dewatering system that have "allowed the groundwater table to rise to the ground surface thereby providing wetland hydrology and the subsequent development of the hydric soils and wetland vegetation conditions." (AES' Request at p. 1.)

Upon review and analysis of the PSA and AES' request, it is my opinion that the presumption of an artificial rise in groundwater as the sole causal link with respect to the wetlands determination is lacking in scientific substantiation. AES has provided (a) no data or evidence-regarding the amount of time of the alleged malfunction; (b) no baseline data to serve as a comparison point; and (c) no assessment of whether such a substantial rise in the water table would result in the creation of hydric soils.

There is a lack of baseline data from which to determine that the sole cause of the creation of wetlands is attributable to groundwater changes. Moreover, there is no baseline data to corroborate the change in groundwater, such as piezometer readings over the last several years to establish average normal condition, let alone an increase in levels.

### **III. RECOMMENDED PLAN OF ACTION TO EVALUATE WHETHER A CHANGE IN THE WETLANDS DETERMINATION HAS OCCURRED**

If the Commission decides to seriously consider the request, it should require AES to collect and provide substantial additional data and analysis, as described below.

In order to assess the claim that the 5.39 acres of Coastal Commission wetlands are man-made and as such should not be considered jurisdictional, PCR recommends the following data collection procedure:

1. Collect additional data on the wetland areas, such that a current baseline can be determined to compare against the post-replaced pumps condition to determine if a measurable change in hydrology exists. Scientifically, this method is the best practice for determining whether the previously identified wetlands no longer exist.

2. Compile groundwater data to include the normal groundwater elevation, current groundwater elevation, and post-replacement pump elevation to definitively correlate the groundwater change to the hydrology changed in the wetlands.

3. Conduct hydrology and groundwater data collection for a *minimum of one year* (preferably two years) to account for seasonal variation.



Once changes in groundwater and hydrology are substantiated, PCR recommends the following:

1. Conduct a formal delineation of the extent of wetlands with use of data points in cooperation with Coastal Commission staff to come to agreement on the extent of wetlands. In addition, the Energy Commission should consider requiring third-party peer review to confirm the conclusions prior to presenting the results to the Coastal Commission.

2. Reassess the specific requirement for mitigation. The mitigation acreage required should be based upon impact acreage calculated from field data, not aerial imagery. This method is consistent with common practice applied by most regulatory agencies that assess impacts to wetlands and corresponding mitigation measures. Moreover, PCR recommends that the required timing of any mitigation purchase or implementation be contemporaneous with the impacts to ensure no temporal loss. If there is an unavoidable delay in mitigation purchase or implementation, PCR recommends that the 3:1 ratio required should be increased beyond 3:1. The acreage, type, form, and funding of mitigation and perpetual management should be approved by the Coastal Commission staff prior to implementation of the Project.

We hope the above recommendations provide assistance in this matter. I can be reached at (949) 753-7001, ext. 2108, or [b.martinez@pcrnet.com](mailto:b.martinez@pcrnet.com) with any questions.

Sincerely,  
**PCR SERVICES CORPORATION**

A handwritten signature in black ink, consisting of a circular scribble followed by a long horizontal line extending to the right.

Beth Jolie Martinez, M.S.  
Associate Principal and  
Deputy Director of Biological and Regulatory Services