

## DOCKETED

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<b>Project Title:</b>	Redondo Beach Energy Project
<b>TN #:</b>	205252
<b>Document Title:</b>	City of Redondo Beach - Status Report - 07-06-15
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<b>Filer:</b>	Jon Welner
<b>Organization:</b>	Jeffer Mangels Butler & Mitchell LLP
<b>Submitter Role:</b>	Intervenor Representative
<b>Submission Date:</b>	7/6/2015 9:01:29 PM
<b>Docketed Date:</b>	7/7/2015

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3 **STATE OF CALIFORNIA**  
4 **California Energy Commission**

5 **In the Matter of:**

6 **REDONDO BEACH ENERGY PROJECT**

**Docket No. 12-AFC-03**

7  
8 **APPLICATION FOR CERTIFICATION**  
9

10  
11 **INTERVENOR CITY OF REDONDO BEACH'S**  
12 **STATUS REPORT**

13  
14 July 6, 2015

15  
16  
17  
18 JEFFER MANGELS BUTLER & MITCHELL LLP  
19 JON WELNER (Bar No. 178578), [jwelner@jmbm.com](mailto:jwelner@jmbm.com)  
20 KIMBERLY A. HUANGFU (Bar No. 242251), [khuangfu@jmbm.com](mailto:khuangfu@jmbm.com)  
21 Two Embarcadero Center, Fifth Floor  
22 San Francisco, CA 94111  
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28  
Attorneys for Intervenor CITY OF REDONDO BEACH



1 The Task Force is directed to hold three meetings and two public workshops in a three-month  
2 period, and then report back to the Council.

3 **III. UPCOMING SUBMISSIONS BY THE CITY**

4 The City anticipates submitting the following materials to the Energy Commission:

5 **A. Supplemental Comments on Alternatives**

6 The City has obtained new and material information that should be incorporated into  
7 the analysis of Alternatives in the Preliminary Staff Assessment ("PSA"). The City plans to submit  
8 supplemental comments regarding this information on or before July 31, 2015.

9 **B. Supplemental Comments on Air Quality Impacts**

10 The South Coast Air Quality Management District ("Air District" or "AQMD") held  
11 a public meeting to discuss the Redondo Beach Energy Project ("RBEP") on June 25, 2015. As a  
12 result of the meeting, the City has obtained, and is in the process of obtaining, new and material  
13 information that should be incorporated into the analysis of Air Quality impacts in the PSA. The  
14 City plans to submit supplemental comments regarding this information on or before July 31, 2015.

15 In addition, the Air District states in its Status Report that, "SCAQMD anticipates  
16 completion of the Final Determination of Compliance (FDOC) within 30 days after the public  
17 meeting, however, the timing may change due to the extent and contents of the air quality related  
18 comments and public input received both during the 30 days comment period for PSA and during  
19 the public meetings." The City anticipates submitting additional comments on Air Quality after the  
20 Air District issues a decision on the FDOC.

21 **C. Supplemental Comments on Noise Impacts**

22 At the PSA workshop on May 20, 2015, the City asked AES to provide the technical  
23 data underlying its noise analysis. AES agreed to provide the data.<sup>2</sup>

24 Since that time, the City has repeatedly asked for the data, and has been told that it  
25 does not exist. The City's most recent request was sent by email to AES' counsel on June 18, 2015.

26 The email states, in part:

27 \_\_\_\_\_  
28 <sup>2</sup> As detailed in our prior Status Report, AES counsel stated that, "the technical data that supports the AFC...has been available at all times for public review...[and] we can provide it to you now."

1 I believe there may be a misunderstanding about the data being  
2 requested by the City. We are not asking AES to perform any  
3 additional studies. Rather, we are asking AES to provide the data and  
calculations underlying the statements it has already made in the AFC  
and responses to data requests.

4 The email then provides a detailed description of the requested data. AES' counsel responded by  
5 email on June 24:

6 I am in receipt of your data requests. AES's noise consultant is  
7 currently on vacation. I will discuss your requests with him, when he  
returns next week.

8 (A copy of the email exchange is attached as Exhibit C.)

9 The City has not heard anything further from AES. If AES does not provide the data  
10 in the near future, the City will file a motion to require production of the data. Once the City  
11 receives the data, it will submit supplemental comments on Noise impacts.

12 **D. Supplemental Comments on Biological and Visual Impacts**

13 The Coastal Commission published its draft Section 30413(d) Report on June 24,  
14 2015. The Report will be considered for approval by the Coastal Commission at its meeting on  
15 July 8, 2015. The City plans to submit comments to the Coastal Commission prior to the meeting  
16 regarding Biological and Visual impacts. The City will also file these comments with the Energy  
17 Commission. The City may submit additional comments on these topics to the Energy Commission  
18 following issuance of the final Section 30413(d) Report by the Coastal Commission.

19 **E. Supplemental Comments on Visual Impacts**

20 In the PSA, Staff determined that the RBEP would cause a significant negative  
21 impact on visual resources. To reduce the impact to less than significant, Staff directed AES to  
22 prepare a "site screening and landscape concept plan" ("Concept Plan") that would be "reviewed by  
23 staff and the public."

24 On June 9, 2015—five days after the deadline for comments on the PSA—Staff  
25 docketed a notice stating that AES had not yet submitted the Concept Plan, and that Staff expected  
26 AES to submit the Concept Plan no later than June 19, 2015. On June 11, 2015, AES docketed a  
27 response saying that it would not submit anything further with regard to the Concept Plan. On June  
28

1 19, 2015, AES submitted revised view simulations that had been requested by Staff, but no Concept  
 2 Plan.<sup>3</sup>

3 In light of AES' late-submitted comments and failure to submit a Concept Plan, the  
 4 City plans to submit supplemental comments regarding Visual Impacts on or before July 31, 2015.

5 **IV. NEW POPULATION DATA**

6 Several weeks ago, the City asked Energy Commission Staff whether any data  
 7 existed regarding the population density surrounding gas-fired power plants in California. In  
 8 response, Staff prepared a set of maps which document the population density within a one-mile  
 9 radius of six coastal gas-fired power plants. The maps were docketed on June 22, 2015.

10 The maps demonstrate that the proposed RBEP site is a uniquely poor location for a  
 11 major power plant. The population density surrounding the RBEP site is nearly 11,000 people per  
 12 square mile, more than *double* the population density of next-most-crowded site—Huntington  
 13 Beach—and nearly 40 times the population density of the least crowded site. A table summarizing  
 14 the data is below:

Select Power Plant	Population	Census Block Area (Mi <sup>2</sup> )	Population Density (Population/Mi <sup>2</sup> )
Alamitos Energy Center (13-AFC-01)	11,798	3.15	3,745.40
Carlsbad Energy Center (07-AFC-06)	6,648	2.53	2,627.67
El Segundo Energy Center (00-AFC-14)	6,760	2.19	3,086.76
Huntington Beach Energy Project (12-AFC-02)	8,731	1.72	5,076.16
Puente Power Project (P3) (15-AFC-01)	423	1.50	282.00
Redondo Beach Energy Project (12-AFC-03)	23,729	2.16	10,985.65

20 The City asked Energy Commission Staff to prepare similar maps for all gas-fired  
 21 power plants that are subject to Energy Commission jurisdiction, but Staff declined. The City has  
 22 therefore retained a private digital mapping firm to produce the maps. Once the maps are complete,  
 23 the City will submit the additional population density data to the Energy Commission.

24 **V. MOTIONS**

25 The City is preparing to file three possible motions in the near future:  
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28 <sup>3</sup> AES asserted that the Concept Plan "was included in the materials submitted to the CEC on June 4th."



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**VI. REQUEST FOR STATUS CONFERENCE**

Given the large number of issues and developments in this proceeding, the City respectfully requests that the Committee schedule a Status Conference within the next 30 days.

DATED: July 6, 2015

JEFFER MANGELS BUTLER & MITCHELL LLP



By: \_\_\_\_\_

JON WELNER

Attorneys for Intervenor CITY OF REDONDO  
BEACH

EXHIBIT A

## 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 \_\_\_\_ day of \_\_\_\_ 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 \_\_\_\_ day of \_\_\_\_ 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

**EXHIBIT B**

## RESOLUTION NO. CC-1506-051

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ESTABLISHING AN AES TASK FORCE AND SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF SAID TASK FORCE TO STUDY AND REPORT ON THE PREFERRED ZONING AND LAND USE ALTERNATIVES FOR THE AES SITE

WHEREAS, sustaining a healthy and economically viable community is central to the work of the Mayor and City Council as elected representatives of Redondo Beach's citizens; and

WHEREAS, the Mayor and Council have recommended that a task force be appointed whose purpose would be to identify and recommend comprehensive rezoning and Land Use Plan amendments for the re-use of the AES property.

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

SECTION 1. That the Redondo Beach City Council shall establish a 17 member AES Task Force. The Mayor shall appoint the Chair of the task force and the remaining members subject to confirmation by the City Council as set forth below.

SECTION 2. That the composition includes participants and advisors as follows:

#### Authorized Participants (Total of 17)

- Each Council Member and the Mayor appoint 2 representatives from anywhere in the City (12 total)
- AES representative
- R4 representative
- Voices representative
- Hermosa Beach representative appointed by Hermosa Beach City Council
- Beach Cities Health District representative

#### Overall Task Force Composition

- At least three district representatives
- No current or former elected officials may be selected as participants
- Task Force members will be removed after more than two absences

#### City Advisors

- City planner
- City Clerk – Brown Act Committee

- Facilitator and land use experts- Task Force to be led by a paid facilitator with technical support from experts in various fields including land use, finance, traffic, parks, etc. as needed.

Each organization will be responsible for providing nominations for their representative to the Task Force. The City Council members will be responsible for providing nominations for their District representatives. Similar to City Commissions, the Mayor will be responsible for appointing the members of the Task Force subject to confirmation by the City Council.

SECTION 3. That the Mayor and City Council have determined the study area to be the 50 acre AES site. The Task Force will focus their efforts on developing zoning and land use plan requirements for this site.

SECTION 4. That the specific duties, responsibilities, and Guiding Principles of the AES Task Force shall be as follows:

1. Develop broad zoning land use distribution and cap recommendations for AES property.
2. Elicit public feedback during process to be incorporated by the group.
3. Produce report and drawings of recommendations - include assessment of areas of consensus and any dissenting opinions.
4. Achieve a plan that can be implemented.
5. Deliver a plan that contains a balance of uses including public and private open space, parks, neighborhood and community-serving uses, local and visitor-serving uses, uses that generate jobs and revenues, uses that are coastal dependent and uses consistent with the Coastal Act. Park as defined in this section is an area of land in a largely natural state, for the enjoyment of the public, having facilities for rest and recreation, often owned, set apart, and managed by a neighboring business, city, state or nation. Parks can include walking paths, sports fields, amphitheater, native gardens, bicycle paths, water features, swimming facilities or any other feature strictly for public use. Does not include buffers between land uses, traffic medians, bioswales or drainage areas, or any other area of a development currently required by the Redondo Beach Municipal Code or design guidelines.
6. Provide at least 20 percent high quality public park open space.
7. Develop a plan that ensures a high-quality visual and aesthetic environment.
8. Create a plan that delivers a strong "sense of place" by incorporating placemaking concepts and design and land use concepts from the Project for Public Spaces (PPS).
9. Consider the needs of all age groups and demographics in the plan.
10. Incorporate Blue Zones and Living Streets concepts in the planning and design.
11. Ensure that the land uses recommended are economically viable in the current market and provides significant economic benefits to the City.
12. Provide for allowable uses of the property and development standards that result in an underlying land value of between \$150- 200 Million.

SECTION 5. That in order to assist the Mayor and City Council in making a determination on the best facilitated process to develop consensus on the preferred land use trajectory for the AES site, the following are the recommended process and operational details for the AES Task Force. The process seeks to balance the need to move forward quickly with sufficient community engagement and includes 3 Task force meetings and 2 Public Feedback Workshops over a 3 month time frame.

#### Three Task Force Meetings and Two Community Workshops

- Month 1- Task Force Meeting 1: Introduction, Education and Situational Assessment- Where are we now?
- Scope description, process and rules of engagement
  - Zoning concepts and explanation of General, Plan, Zoning, Coastal Plan and other documents
  - Overview of the Coastal Act
  - Fiscal, environmental, recreational impacts of zoning overview
- Month 2- Task Force Meeting 2: Visioning and Overall Broad Zoning Goals
- Develop consensus on broad overall zoning goals and vision
  - Assessment of goals and constraints
  - Adjustment of goals and constraints
  - Public feedback on broad goals and constraints (Public Workshop 1)
  - Finalize broad zoning goals and constraints
- Month 3- Task Force Meeting 3: Consensus Building and First Draft of Broad Zoning.
- First draft of broad zoning
  - Break down areas and broad uses and constraints in each sub-area
  - Expert assessment
  - Adjustment
  - Public feedback on broad zoning and land uses (Public Workshop 2)
  - Adjust broad zoning for each sub-area
- Month 4- Progress Report to City Council

#### Operational details:

- Task Force to be a Brown Act Committee complete with published Agendas and Minutes
- Meet every two weeks or less frequently but no less than once per month.
- Meeting on weeknight at 7:00 PM, or Saturdays at 10:00 AM, 2 hour sessions max.
- Group can appoint subcommittees to conduct work between meetings and present findings/recommendations at regular meeting.

- Quorum - At least half plus 1 for quorum. If any appointee resigns/declines, may be replaced by appointment of Council Member who appointed or lower group size is acceptable at Council's discretion.
- Facilitator - runs process and can change process as required, but cannot participate in solutions or votes.
- Facilitator may make recommendation on replacing member if member is disruptive and does not participate in good faith.
- City to keep minutes/actions/findings, etc. To be reviewed at start of each meeting.

SECTION 6. That the AES Task Force shall be advisory to the Mayor and City Council, and be subject to the provisions of the Brown Act.

SECTION 7. That the facilitator will be present at the initial meetings of the Task Force to assist in meeting the above stated goals of the Task Force.

SECTION 8. That the Chair of the Task Force shall be appointed by the Mayor subject to confirmation by the City Council and will serve as Chair through the duration of the Task Force. The Task Force shall elect a member to serve as Vice Chair. The Vice Chair will handle the duties of the Chair in the event the Chairperson is absent from a meeting. In the event both the Chairperson and the Vice Chairperson are absent from a meeting, the Task Force shall appoint one of its members to serve as Acting Chairperson for the duration of that meeting. In the event that the Chairperson resigns or is removed from the Task Force, a new Chair will be appointed by the Mayor subject to confirmation by the City Council.

SECTION 9. That a member of the Task Force shall be removed for missing more than 2 meetings of the Task Force, unless by permission of the City Council expressed in its official minutes. A replacement may be appointed by the Mayor at his discretion subject to City Council confirmation. If the removed member was the representative of one of the community groups, then the sponsoring organization of the member may nominate another representative to the Task Force. The sponsoring organization may not nominate the same individual who was previously removed.

SECTION 10. That this Resolution shall take effect immediately upon its adoption.

SECTION 11. That the City Clerk is directed to immediately accept nominations for the Task Force.

SECTION 12. The City Clerk shall certify to the passage and adoption of this resolution and shall enter the same in the Book of Original Resolutions.

PASSED, APPROVED AND ADOPTED this 30<sup>th</sup> day of June, 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 Resolution No. CC-1506-051 was duly passed, approved and adopted by the City Council of the City of Redondo Beach, California, at a regular meeting of said City Council held on the 30<sup>th</sup> day of June, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Eleanor Manzano, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Webb, City Attorney

EXHIBIT C

## Welner, Jon

---

**From:** Welner, Jon  
**Sent:** Wednesday, June 24, 2015 1:47 PM  
**To:** 'Greggory L. Wheatland'  
**Cc:** Samantha Pottenger; Jeffery Harris; Stephen O'Kane  
**Subject:** RE: Noise Study

Thanks. We look forward to hearing from you next week.

jw

**Jon Welner** | Partner

**Jeffer Mangels Butler & Mitchell LLP | JMBM**

Two Embarcadero Center, 5th Floor, San Francisco, California 94111

**P:** (415) 984-9656 | **E:** JWelner@JMBM.com

**[VCARD](#) | [BIO](#) | [BLOG](#) | [TWITTER](#) | [LINKEDIN](#)**



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---

**From:** Greggory L. Wheatland [<mailto:glw@eslawfirm.com>]  
**Sent:** Wednesday, June 24, 2015 9:50 AM  
**To:** Welner, Jon  
**Cc:** Samantha Pottenger; Jeffery Harris; Stephen O'Kane  
**Subject:** RE: Noise Study

Mr. Welner:

I am in receipt of your data requests. AES's noise consultant is currently on vacation. I will discuss your requests with him, when he returns next week.

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

**2600 Capitol Avenue, Suite 400**  
**Sacramento, CA 95816-5905**  
**(916) 447-2166**  
**(925) 202-4400 Cell**  
**<mailto:glw@eslawfirm.com>**  
**[www.eslawfirm.com](http://www.eslawfirm.com)**

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**From:** Welner, Jon [<mailto:jxw@jmbm.com>]  
**Sent:** Thursday, June 18, 2015 6:04 PM  
**To:** Gregory L. Wheatland  
**Cc:** Samantha Pottenger; Jeffery Harris; Stephen O'Kane  
**Subject:** RE: Noise Study

Gregg,

I believe there may be a misunderstanding about the data being requested by the City. We are not asking AES to perform any additional studies. Rather, we are asking AES to provide the data and calculations underlying the statements it has already made in the AFC and responses to data requests.

At the PSA Workshop, you confirmed that this data would be made available: "the technical data that supports the AFC...has been available at all times for public review...[and] we can provide it to you now."

Specifically, we are requesting the following technical data:

<b>Statement in the AFC or PSA</b>	<b>Underlying Data Being Requested</b>
PSA: Page 4.7-7  Ambient noise was monitored at four locations.	Provide all ambient noise measurement data for monitor locations M1, M2, M3, and M4. Provide hourly measured noise levels, including Leq, L10, L50, L90, and Lmax; and the existing power plant total facility output (in MW) during each hour of noise monitoring.
AFC: Page 5.7.11, Section 5.7.3.3.3, 1st Paragraph PSA: Page 4.7-17, 2nd Paragraph  A noise model of the proposed RBEP was developed using CADNA/A computer software.	Provide an electronic copy of the CADNA/A noise model file; all parameters that were input to the noise model; and all supporting calculations and data (with source documentation) used to establish the parameters.
AFC: Page 5.7-11, Table 5.7-10  List of major equipment sound power levels used in the AES analysis	Provide the source or reference documentation used to determine the equipment sound levels.
AFC: Page 5.7.12, 3rd Paragraph PSA: Page 4.7-17, 2nd Paragraph  List of noise mitigation measures included in the AES noise model or analysis	Provide the noise reduction data (with source documentation) and related calculations used for all of these noise mitigation measures as incorporated into the noise model.
PSA: Page 4.7-18, Noise Table 7, Column 2 & Page 4.7-20, Noise Table 8, Column 2  Predicted operational noise levels	Provide the calculations and data (with source documentation) used to develop the predicted operational noise levels.

Statement in the AFC or PSA	Underlying Data Being Requested
PSA: Page 4.7-40, Noise-Figure 1  The figure depicts "noise model results" as a projected noise contour map.	Provide the calculations and data (with source documentation) used to develop this noise contour map.

Also, in the PSA, there are a number of assertions that do not appear to have any supporting data or calculations. Please confirm that you do not have any data or calculations to support the following assertions:

Assertion in the PSA
PSA: Page 4.7-17, 3rd Paragraph  Assertion that the project will be able to avoid the creation of annoying tonal (pure-tone) noises by balancing the noise emissions of various power plant features during plant design.
PSA: Page 4.7-17, 3rd Paragraph  Assertion that flash tanks and direct condenser bypass can be used as an alternative to direct steam release, and that these operations will not generate significant noise impacts.
PSA: Page 4.7-22, 1st Paragraph  Assertion that use of the Mitsubishi MHI 501 system will ensure that ground-borne vibration will be undetectable by any likely receptor.
PSA: Page 4.7-22, 2nd Paragraph  Assertion that the combination of SCR units and stack silencers ensure that RBEP will not cause perceptible airborne vibration effects.

Please let me know if you have any questions. Thank you for your assistance.

**Jon Welner** | Partner  
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**From:** Gregory L. Wheatland [<mailto:glw@eslawfirm.com>]  
**Sent:** Wednesday, June 03, 2015 11:44 AM  
**To:** Welner, Jon  
**Cc:** Samantha Pottenger; Jeffery Harris; Stephen O'Kane  
**Subject:** RE: Noise Study

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.**

**2600 Capitol Avenue, Suite 400**  
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**From:** Welner, Jon [<mailto:jxw@jmbm.com>]  
**Sent:** Tuesday, June 2, 2015 5:36 PM  
**To:** Gregory L. Wheatland  
**Cc:** Samantha Pottenger; Jeffery Harris; Stephen O'Kane  
**Subject:** RE: Noise Study

Gregg,

At the PSA workshop, you agreed to provide a copy of your technical noise analysis. At a minimum, we would expect the analysis to include:

- Equipment noise levels that are the basis of your analysis (including their reference source for information).
- Documentation showing which noise reduction measures were included in their analysis and thus should become necessary mitigation to achieve their projected noise levels.
- Noise reduction data for the mitigation measures.
- Calculation methodology with site plan details and other assumptions of acoustical shielding, directivity, and similar factors.
- Safety factor used in their analysis

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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**From:** Gregory 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](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

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