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HBWC Comments on HBEP, 12-AFC-02C

Additional submitted attachment is included below.



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April 18, 2016

California Energy Commission Dockets Unit, MS-4
Docket No. 12-AFC-02C
1516 Ninth Street Sacramento, CA 95814-5512

RE: Huntington Beach Energy Project, Docket Number 12-AFC-02C, Petition to Amend

The Huntington Beach Wetlands Conservancy is a non-profit land trust that owns property and facilities immediately adjacent to the Huntington Beach Energy Project (HBEP). The Conservancy was formed to protect, preserve and restore the Huntington Beach Wetlands. The protected wetlands extend along the inland side of Pacific Coast Highway from the Santa Ana River past the HBEP site to Newland Street. In our letter to the CEC of December 3, 2013 we pointed out our concerns at that time regarding the possible impacts of the proposed HBEP and the need for protection of the restored wetlands and the Wetlands and Wildlife Care Center that is a tenant on the property. Those concerns have not changed, and the Petition to Amend (PTA) raises other issues of concern that need to be addressed.

As one of the nearest neighbors and an abutting property owner east and southeast of AES, we are concerned with what we perceive as additional potential encroachment and detrimental impact on the restored wetlands and the flora and fauna therein as a result of the proposed changes in the PTA.

First off we would like to point out the tendency of AES to misrepresent the current state of the wetlands. In briefings to the Huntington Beach City Council and local residents AES has used artist renderings superimposed on an old photo of the AES site and the adjacent restored wetlands that would have one believe there are no wetlands adjacent to the project. The graphics in Attachment 1 show the incongruity of this in that both their own graphics and current graphics from Google Earth attest. It is clear from current photos that there are protected wetlands immediately adjacent to the AES property line, and they are not separated by a broad expanse of degraded wetlands and dry land as AES would lead the observer to believe in their publically presented graphics.

The PTA submitted by AES on September 14, 2015 proposes to relocate power generation facilities to put them even closer to the Huntington Beach Wetlands than was initially approved by the CEC as shown in Attachment 1. It is expected that the relocated facilities proposed in the PTA will increase the level of noise and vibration impacting the protected wetlands inhabitants above that projected in the original site plan. While a 50 foot high sound wall is proposed by AES, it is unlikely that the impacts will be lessened by approval of the PTA from those conditions expected from the already approved project. In addition to the increased impact on the wetlands, the Wetlands and Wildlife Care Center, which is a tenant on the property, houses live animal and bird inhabitants that are constantly in varying stages of rehabilitation which will also be increasingly impacted since the proposed fifty foot sound wall is not expected to protect this facility.

The Huntington Beach Wetlands Conservancy is concerned with the PTA's proposed use of the Plains All American Tank Farm site for either employee parking or construction laydown as stated in Section 5.2.2. The PTA states parking options will include "*An additional 20 acres beyond the 1.9 acres identified in the Final Decision at the Plains All American Tank Farm site located adjacent to the HBEP site for construction laydown and construction worker parking*" and "*Construction workforce parking at the Plains site will walk to the HBEP site via an existing bridge over the Huntington Beach Channel and walking path. The bridge and walking path will be fenced with temporary construction fencing for safety and to avoid impacts to the adjacent wetlands.*" The Huntington Beach Wetlands Conservancy will not allow crossing the Conservancy owned restored wetlands by employees to reach the HBEP construction site. The grant deed transferring the wetlands property from Southern California Edison to the Huntington Beach Wetlands Conservancy includes an easement covering previous installation of pipelines across the wetlands. This easement clearly prohibits AES's proposed use of a pathway crossing the wetlands from the Plains site to the HBEP construction site for this purpose.

A CEC Committee Status Conference on the HBEP project was held on February 16, 2016 in CEC's Charles Imbrecht Hearing Room. During that conference Susan Cochran, CEC's Hearing Officer, requested clarification from AES on the Coastal Development Permit (CDP) approved by the City of Huntington Beach on the Plains Tank Farm site for demolition of the tanks and ancillary site improvements. Melissa Foster, Attorney for AES, responded that the City on November 20th requested that all conditions of the CDP be included in the PTA analysis done by the CEC staff. She stated that "*The CDP is very specific in what it covers. It relates to removal of the tanks at the plain (sic) site, some above ground piping, and grading the site.*" It needs to be noted that the CDP is much more specific than AES implied in that it requires all above ground piping be removed, and if any underground piping is discovered (and there is underground piping as shown in Attachment 1) soil testing and (if necessary) a Remedial Action Plan will be required for any disturbance to the ground. The decision on whether the CEC or the City has responsibility for the remediation required before the site could be used for employee parking and construction laydown should be made between the two government agencies and not by AES. The final decision should be based on which agency can provide the best protection for the wetlands and the public. In the event CEC decides to include the Plains site in their staff analysis of the PTA, the inclusion of the CEC's original Conditions to Approve, Item BIO-8, Pre-

Construction Nest Surveys and Impact Minimization for Breeding Birds, as required by the original HBEP approval needs to be included for the Plains site as well.

The oil storage site is unpaved, and AES reportedly intends to install no paving for the Plains site which would result in the potential for heavy dust and debris being blown into the wetlands. In addition, use of the site as a construction laydown area would entail the storage and assembly of major power generation equipment components; storage, repair and maintenance of heavy construction equipment; storage of potentially hazardous materials; and a requirement for increased site security including lighting. Protection of the wetlands would require erection of a temporary sound wall along the channel separating the wetlands from the Plains site and paving or soil treatment to prevent the spread of hazardous dust and debris to the wetlands and surrounding residential neighborhoods.

The Plains site does not currently have any control of rainwater runoff other than a drainage pipe that dumps runoff directly into the existing flood control channel adjacent to the site which is not in accordance with current City, state and regional water control requirements. This flood control channel flows into the restored wetlands and directly to the ocean. Any plan for reuse of the site, even though it may be temporary, should include installation of a storm water runoff filtration system to prevent pollutants from leaving the site. Monitoring of the site perimeter should be required to insure airborne pollutants and sound levels are kept within prescribed limits.

The proposed construction of a new entrance to the Plains site would place vehicle traffic using the entrance much closer to the wetlands than the current entrance to the site. It is recommended that the existing entrance be modified to allow heavier traffic than it would now support, and the construction of a new entrance be denied. This would put the entrance immediately adjacent to the Ascon Landfill site which will be in active remediation under the control of California's Department of Toxic Substance Control beginning in 2017. This would enable better coordination of both sites' traffic. The Ascon Landfill remediation will generate up to 24,000 fully loaded trucks over about a two year period. These trucks hauling hazardous waste will depart the east side of the Ascon site onto Magnolia Street and proceed south to Pacific Coast Highway. This is the same street traffic from the Plains site would use. Empty trucks will transit Pacific Coast Highway to Newland Street passing the entrance to the AES construction site and entering the north side of the Ascon site from Hamilton Street.

On November 5, 2012, the Huntington Beach City conditionally approved Coastal Development Permit (CDP) No. 10-11 for the Plains Tank Farm site with findings, mitigation measures and conditions of approval for tank demolition, pipeline removal, and ancillary site improvements removal. Required measures include soil testing and preparation of a Remedial Action Plan (since soil disturbance will be required to remove some underground pipelines), clearance from the South Coast Air Quality Management District, approval of a truck haul route, and other protective requirements. Further discussion of the CDP requirements can be found following a current Google Earth image of the area shown in Attachment 1. As of this date no building permit application has been received by the City of Huntington Beach, and one would be required before the Plains Tank Farm demolition and cleanup can begin. The CDP states: *"The project proponent does not propose any new uses of redevelopment of the site, and upon*

completion of the project, the site would remain vacant. The site has been identified as containing potentially hazardous materials in the form of lead-based paints, asbestos, and hydrocarbon soils contamination. The potential upset of or accidental release of hazardous materials would be a significant impact.”

The Plains site is reportedly currently in escrow for sale to a new owner who has expressed an interest in developing medium density residential units on the site. The site is currently zoned PS-O-CZ-FP2 (Public-Semipublic – Oil Production Overlay – Coastal Zone Overlay - Floodplain Overlay) in the Huntington Beach Zoning Code and would require rezoning for any proposed reuse for other purposes.

The Huntington Beach Design Review Board recently approved revised “visual screening” designs (described by AES in TN #210763) to replace the surfboard and wave enhancements previously proposed for the AES site. We are concerned that: the proposed screening using “24 inch plastic spheres” in a “cable net structure” has the potential to provide raptor perching opportunities discouraged by Cal Fish & Wildlife near wetlands; create noise during wind events detrimental to protected wetlands inhabitants; and produce solar reflected glare that would tend to scare away endangered and protected species such as the federally endangered Belding’s Savannah Sparrow which regularly inhabits and breeds in the immediately adjacent restored wetlands.

If additional input concerning our concerns with this project are desired, please do not hesitate to contact us.

Sincerely,

Gordon W. Smith, PhD
Chairman
Huntington Beach Wetlands Conservancy

Enclosure: Attachment 1, Graphics with Text Explanations

Attachment 1

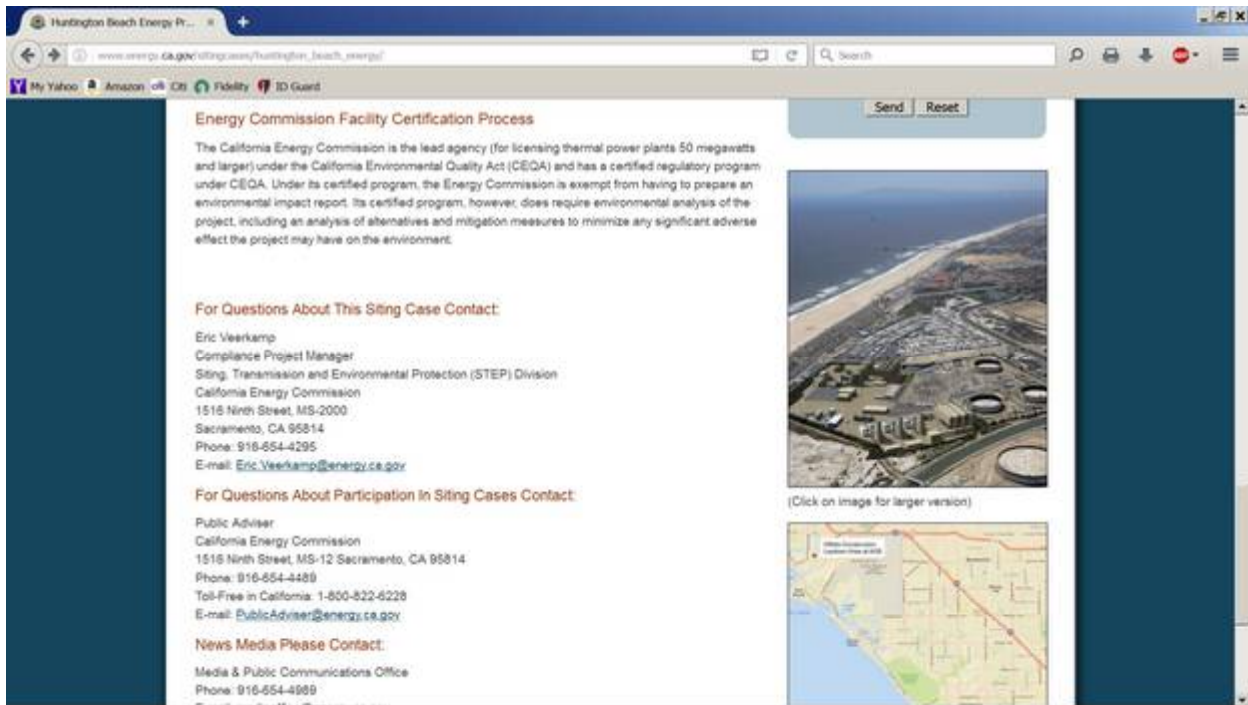
Graphics with Text Explanations



The screen image above is from AES's website at <http://renewaeshuntington.com/>

The above image is presented to show what is perceived by the Huntington Beach Wetlands Conservancy as misinformation presented by AES to the California Energy Commission, the City of Huntington Beach, and the public as the current state of fully restored wetlands immediately adjacent to the Huntington Beach Energy Project.

Note in this superimposed photo that the "Proposed" AES project (as shown before submittal of the Petition to Amend) appears to abut no wetlands and only shows only heavily tracked dry land adjacent to the Huntington Beach Wetlands. Briefing presentations by AES of the amended HBEP proposal use the same old photo of dry wetlands with the artist rendering updated to the revised site plan from the Petition to Amend as shown below. The background photo upon which this "Proposed" photo is inserted shows a representation closer to reality in that the restored wetlands are shown. The photo used in the artist rendering that is used in the "Proposed" photo appears to be from a much earlier photo (presumably earlier than 2009 as shown below) before any restoration of the wetlands was begun in 2010 and completed in 2011.



The screen image above from http://www.energy.ca.gov/sitingcases/huntington_beach_energy/

This image shows the current display of AES's image of dry wetlands in the artist rendering of the originally proposed and approved HBEP as it is currently displayed on a CEC website.



The screen image above shows AES's artist rendering as proposed by the Petition to Amend



The screen image above is from Google Earth and is dated May 24, 2009



The screen image above is from Google Earth dated March 2015

This image shows the current state of the Huntington Beach Wetlands after completion of the federally funded wetlands restoration project in 2011. As this image clearly shows, there is very little dry land separating the AES site from the restored wetlands that directly abut the AES site on the east and southeast sides of their property.

A Coastal Development Permit (CDP) for the Plains site was approved by the City of Huntington Beach on March 27. The CDP clearly states under Mitigation Measures for Environmental Concerns that: *“Prior to the onset of ground disturbing activities ... A soil testing plan conforming to City Specification No. 431-92, Soil Cleanup Standards shall be submitted to the fire department for review and approval.”* There are pipes passing under the access roads on the property (clearly visible in the Google Earth close-up image shown below) that will require removal and, hence, soil disturbance requiring testing and remediation. Also, Paragraph 3 of the Finding of Approval states: *“The site has been identified as containing potentially hazardous materials in the form of lead-based paints, asbestos, and hydrocarbon soils contamination. The potential upset of or accidental release of hazardous materials would be a potentially significant impact.”* On page 6 of the CDP Item 4.i. states: *“Discovery of additional soil contamination or underground pipelines, etc., must be reported to the Fire Department immediately and the approved work plan modified accordingly in compliance with City Specification No. 431-92 Soil Clean-Up Standards.”*

It should be noted that the tank farm immediately north of the HBEP site is owned by AES. While this site would provide an ideal location for construction laydown and employee parking for the HBEP, the site has been leased long term to Poseidon Resources for possible future construction of a desalination plant. The proposed Poseidon project is currently under review by the California Coastal Commission and other government agencies. The Poseidon project, if approved, would also use Newland Street for movement of construction workers, equipment, and materials. Construction is estimated at about one billion dollars and would take about two years.



The screen image above is from Google Earth dated March 2015

This image shows the existence of underground pipelines passing under access roads which will require removal under the approved Huntington Beach CDP. This removal will trigger the need for soil testing and remediation.

Note in this image the wetlands immediately adjacent to the east boundary of the AES site and the above ground pipelines over the wetlands discussed in the Grant Deed for the transfer of the wetlands from Southern California Edison to the Huntington Beach Wetlands Conservancy.

Also in this image note the pathway leading across the bridge from the Plains site to the AES site which AES has proposed in the Petition to Amend as a footpath for construction employees parking on the Plains site. This pathway crosses the wetlands, and use of it for pedestrian traffic is not allowed by the easement in the Grant Deed conveying title of the wetlands from Southern California Edison to the Huntington Beach Wetlands Conservancy.