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**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

In the Matter of:

The Petition to Amend the

HUNTINGTON BEACH ENERGY PROJECT

Docket No. 12-AFC-02C

**AES HUNTINGTON BEACH ENERGY,
LLC'S REBUTTAL TESTIMONY (PART
2)**

**AES HUNTINGTON BEACH ENERGY, LLC'S
REBUTTAL TESTIMONY (PART 2)**

December 14, 2016

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I. INTRODUCTION

Pursuant to the Committee's Order Shortening Time; Order Granting Motion to Advance Date for Evidentiary Hearing; and Scheduling Order dated December 2, 2016 ("December 2 Order"), AES Huntington Beach Energy, LLC ("Project Owner") herein provides its Rebuttal Testimony (Part 2) in support of the Huntington Beach Energy Project ("HBEP" or "Project") Petition to Amend ("PTA") (hereinafter referred to as the "Amended HBEP"). Specifically, Project Owner provides rebuttal testimony in response to Staff's Supplemental Testimony on Noise and Vibration, which was first presented as "Supplemental Testimony" with the Final Staff Assessment ("FSA") Part 2.

II. PROJECT OWNER'S REBUTTAL TESTIMONY ON NOISE & VIBRATION

Staff provided Supplemental Testimony on the subject area of Noise and Vibration in FSA Part 2, which included proposed changes to Condition of Certification NOISE-6. As set forth in Project Owner's Opening Testimony (Part 2) (TN# 214756), the original version of NOISE-6, as set forth in the 2014 Final Decision and Staff's October 17, 2016 FSA Part 1, complies with LORS. There is no evidence to support Staff's proposed changes to NOISE-6 as

set forth in FSA Part 2. Project Owner's rebuttal testimony on the topic of Noise and Vibration is set forth in **Exhibit A** attached hereto.

III. CONCLUSION

Project Owner is confident that the Amended HBEP PTA proceeding is ready for evidentiary hearings. Project Owner looks forward to the conclusion of the hearings and a favorable decision by the Commission approving these critical modifications to the Licensed HBEP.

Date: December 14, 2016

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EXHIBIT A
PROJECT OWNER'S REBUTTAL TESTIMONY (PART 2)
NOISE & VIBRATION

**Rebuttal Testimony (Part 2) of AES Huntington Beach Energy, LLC
in the Huntington Beach Energy Project Petition to Amend Proceeding
(12-AFC-02C)**

Project Owner's Witness: **STEPHEN O'KANE
JERRY SALAMY
MARK BASTASCH**

Date: **December 14, 2016**

Topic: **NOISE & VIBRATION**

REBUTTAL TESTIMONY (PART 2)

Project Owner provides the following rebuttal testimony related to new information contained in the Noise section of FSA Part 2. Staff proposed additional revisions to NOISE-6 to clarify that construction staging and warm-up activities at the Plains All-American Tank Farm site are also governed by time restrictions established in City noise LORS. For additional clarification, however, Project Owner proposes the following revisions to make it clear and consistent that this applies to noisy construction staging and warm-up activities.

The Final Decision for the Licensed HBEP notes that the “applicable local noise LORS do not limit the loudness of construction noise” but that “Applicant commits to performing noisy construction work during the times specified in the City of Huntington Beach Noise Element¹.” Project Owner reaffirms this commitment to specifically include noisy construction at the Plains All-American Tank Farm site.

The use of the Plains All-American Tank Farm for construction worker parking was previously analyzed for the Licensed HBEP. The Final Decision identified construction parking at the Plains All-American Tank Farm in Traffic and Transportation Table 7. In addition, the Final Decision specifically acknowledged that parking activities would occur outside of the City’s construction hours and found “existing masonry walls would provide adequate acoustical protection from the noise of increased traffic converging on the construction site.” (Final Decision at p. 6.4-9; TN# 214116.) Further, the facts surrounding the proposed use of the Plains site for construction worker parking and laydown have not changed since Staff published FSA Part 1, which did not contain any prohibition on worker arrival times to the site. There is no new evidence to support Staff’s change to NOISE-6 from FSA Part 1 to FSA Part 2. In addition, noise in this area will be reduced not only by the existing masonry wall, but the existing tank farm berms. Lastly, there are no LORS prohibiting travel on public roads nor the use of the parking and laydown areas, including staging and deliveries, prior to 7:00 a.m.

¹ The Noise Element incorporates the requirements of the City’s Noise Ordinance. (See, City Code section 8.40.090.)

Project-related traffic was not found to result in a substantial change to existing operating conditions on Magnolia on a daily or peak hour basis (FSA Part 1 at p. 4.10-5). In addition, the proposed Magnolia/Banning entrance to the Plains All-American Tank Farm eliminates project traffic along most of the residential portion of Magnolia, particularly when compared with the existing Plains All-American Tank Farm entrance. The existing berms closest to Magnolia Street at the Plains All-American Tank Farm will remain. These berms in addition to the measures already identified in NOISE-6 (e.g. temporary acoustic barriers) as well as the existing sound walls along the residential frontage on Magnolia will further reduce the sounds associated with the use of the Plains All-American Tank Farm. As discussed above, the Licensed HBEP allowed for construction worker parking at Plains and immediately adjacent to the mobile home park on Newland Street without the time restrictions being proposed for the Plains All-American Tank Farm site as part of the Amended HBEP. Project Owner has committed to limiting the hours of noisy construction activities to those consistent with NOISE-6 and the existing conditions of certification NOISE-2 establishes a framework for addressing potential noise concerns, should they arise.

The language added by Staff in the first paragraph of NOISE-6 (in **bold underline** below) either needs to be deleted or the additional clarifying language proposed in **red bold underline** below needs to be added to the Condition.

NOISE-6 CONSTRUCTION RESTRICTIONS

Heavy equipment operation and noisy²³ construction work relating to any project features, **including noisy construction work relating to construction staging and warm-up activities at the Plains All-American Tank Farm (Plains) site,** and pile driving, shall be restricted to the times delineated below:

Mondays through Saturdays: 7:00 a.m. to 8:00 p.m.

Sundays and Federal Holidays: Construction not allowed

Limited construction activities may be performed outside of the above hours, with CPM approval as set forth below.

Haul trucks and other engine-powered equipment shall be equipped with adequate mufflers and other state-required noise attenuation devices. Haul trucks shall be operated in accordance with posted speed limits. Truck engine exhaust brake use (jake braking) shall be limited to emergencies.

Verification: Prior to ground disturbance, the project owner shall transmit to the CPM a statement acknowledging that the above restrictions will be observed throughout the construction of the project.

In consultation with the CPM, construction equipment generating excessive noise³⁴ **at the HBEP site as well as at the Plains site** shall be updated or replaced if beneficial in reducing the noise and if feasible. In addition, temporary acoustic barriers shall be installed around stationary construction noise sources if

beneficial in reducing the noise and if feasible. The project owner shall reorient construction equipment, and relocate construction staging areas, when possible, to minimize the noise impact at nearest noise-sensitive receptors. **All construction-related activities at the two sites shall be performed in a manner to avoid excessive noise and reduce the potential for noise complaints as much as practicable.**