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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 COMPREHENSIVE
PREHEARING CONFERENCE
STATEMENT, EXHIBIT LIST, AND
PREHEARING BRIEF**

**AES HUNTINGTON BEACH ENERGY, LLC'S
COMPREHENSIVE PREHEARING CONFERENCE STATEMENT,
EXHIBIT LIST AND PREHEARING BRIEF**

December 16, 2016

Melissa A. Foster, Esq.
Kristen T. Castaños, Esq.
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814
Phone: (916) 447-0700
Facsimile: (916) 447-4781

Attorneys for AES HUNTINGTON BEACH ENERGY, LLC

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On December 2, 2016, the Committee assigned to this proceeding issued an Order Shortening Time; Order Granting Motion to Advance Date for Evidentiary Hearing; and Scheduling Order (“December 2 Order”). Pursuant to the December 2 Order and the Committee’s Notice of Prehearing Conference and Evidentiary Hearing and Further Orders dated December 7, 2016 (“December 7 Order”), AES Huntington Beach Energy, LLC (“Project Owner”) herein provides its Comprehensive Prehearing Conference Statement, Exhibit List, and Prehearing Brief (“Comprehensive PHC Statement”)¹ in support of the Huntington Beach Energy Project (“HBEP” or “Project”) Petition to Amend (“PTA”) (hereinafter referred to as the “Amended HBEP”) proceedings.

¹Project Owner incorporates herein by reference its Prehearing Conference Statement and Exhibit List (“PHC Statement Part 1”) (TN# 214446), docketed November 9, 2016.

I. SUBJECT AREAS COMPLETE AND READY TO PROCEED TO EVIDENTIARY HEARING

All topics presented in the Final Staff Assessment (“FSA”) Part 1 (TN# 214025) and FSA Part 2 (TN# 214732) are complete and ready to proceed to hearing.²

II. TESTIMONY PRESENTED IN WRITING³

At the November 14, 2016 Prehearing Conference (“PHC”), Project Owner and Staff agreed that most, if not all, testimony would be presented in writing for those subject areas set forth in FSA Part 1.⁴ (See PHC Transcript at pp. 32-35.) In Section V below, Project Owner provides a comprehensive list of all uncontested and contested subject areas and notes the subject areas for which testimony has been submitted in writing versus the subject areas that will also require live testimony. At this time, Project Owner has determined that it is necessary to provide live testimony on the subject areas of Air Quality, Noise and Vibration, and Traffic and Transportation. Project Owner believes these are the only three topics that will require live witness testimony at the Evidentiary Hearing on December 21, 2016. However, should Staff propose in its Prehearing Conference Statement to present oral (live) testimony on any other subject or should the Committee request oral (live) testimony on any other subject, Project Owner will present the appropriate witness(es) and introduce oral (live) testimony accordingly.

² For the Hearing Officer’s and Committee’s convenience, Project Owner presents this Comprehensive Prehearing Conference Statement, which includes a summary of its position on all topics presented in FSA Part 1 and FSA Part 2.

³ Testimony presented in writing includes testimony presented with Project Owner’s Opening Testimony (Part 1) (TN# 214211), Rebuttal Testimony (Part 1) (TN# 214361), Opening Testimony (Part 2) (TN# 214756), Rebuttal Testimony (Part 2) (TN# 214796), and the respective witness declarations referenced therein and as set forth in the attached Exhibit List.

⁴ In its Prehearing Conference Statement (Part 1), Project Owner believed only one subject area, Land Use, may have required live testimony. However, after publication of FSA Part 2, Project Owner believes that topic is no longer in dispute and does not require live testimony.

III. SUBJECT AREAS NOT COMPLETE AND NOT YET READY TO PROCEED TO HEARING

All subject areas presented in FSA Part 1 and FSA Part 2 are complete and ready to proceed to Evidentiary Hearing.

IV. SUBJECT AREAS THAT MAY REQUIRE ADJUDICATION

Project Owner believes the following subject areas require adjudication by the Committee: Air Quality, Biological Resources, Cultural Resources, Paleontological Resources, Geology, Noise and Vibration, Traffic and Transportation, Visual Resources, and Compliance. However, only three topics rise to the level of requiring live witness testimony in addition to the written testimony previously provided: Air Quality, Noise and Vibration, and Traffic and Transportation. Testimony for all other subject areas that may require adjudication has been presented in this proceeding via written testimony contained in Project Owner's Opening Testimony (Part 1) (TN# 214211), Rebuttal Testimony (Part 1) (TN# 214361), Project Owner's Opening Testimony (Part 2) (TN# 214756), and Project Owner's Rebuttal Testimony (Part 2) (TN# 214796), and the witness declarations referenced therein. For the Committee's convenience, Project Owner separately summarizes the subject areas that remain in dispute below.

A. Air Quality

Project Owner concurs with Staff's conclusions in the Air Quality section of FSA Part 2 and agrees with the Conditions of Certification set forth therein, with the exception of Conditions of Certification AQ-SC1 and AQ-SC9. As set forth in Project Owner's Opening Testimony (Part 2), Project Owner requests that written approval from Compliance Project Manager ("CPM") of termination of an Air Quality Construction Mitigation Manager be removed from AQ-SC1 and

the references to the specific amounts of Emission Reduction Credits (“ERCs”) required by AQ-SC9 be deleted from the Condition.⁵

Staff did not provide any rebuttal testimony as to the conditions set forth above. For this reason, Project Owner is requesting that live testimony on the topic of Air Quality be provided during the Evidentiary Hearing.

B. Noise and Vibration

Staff proposed changes to Conditions of Certification NOISE-6 in the FSA Part 2. Project Owner objects to the proposed changes as there are no LORS prohibiting travel on public roads or the use of parking and laydown areas prior to 7:00 a.m. 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.

Staff did not provide any rebuttal testimony regarding NOISE-6. For this reason, Noise and Vibration warrants live testimony at the December 21, 2016 Evidentiary Hearing.⁶

C. Traffic and Transportation

In FSA Part 2, Staff proposed additional revisions to Conditions of Certification TRANS-3 and TRANS-8 related to the contents of the Traffic Control Plan and construction worker

⁵ In addition to those two conditions, note that Project Owner provided Staff with a comment on a Condition of Certification that mirrors a comment provided to the South Coast Air Quality Management District (“SCAQMD”) on a condition set forth in the Final Determination of Compliance (“FDOC”) (Condition AQ-2; FDOC Condition 52.1.) This comment seeks to revise AQ-2 (and FDOC Condition 52.1) to address unexpected delays in the construction and commissioning schedule without requiring submittal of a permit modification application. The Project Owner is continuing discussions with the SCAQMD regarding the language of FDOC Condition 52.1 (AQ-2).

⁶ Project Owner requests an informal panel discussion of NOISE-6 and TRANS-3 during the Evidentiary Hearing. All other Traffic and Transportation items can be discussed separately from the NOISE-6 issue. See Part IV.C.

arrival and parking at designated parking areas (TRANS-3) and timing of plan submittal (TRANS-8). 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 TRANS-3 from FSA Part 1 to FSA Part 2. There is no new evidence to support Staff's change to TRANS-3 from FSA Part 1 to FSA Part 2. Regarding TRANS-8, Project Owner has proposed additional changes to the timing of submittal of plans to the CBO versus the City.

Staff did not provide any rebuttal testimony regarding Traffic & Transportation. For this reason, Traffic & Transportation warrants live testimony at the December 21, 2016 Evidentiary Hearing.

D. Biological Resources

Project Owner concurs with Staff's conclusions in the Biological Resources section of the FSA Part 1 and agrees with the Biological Resources Conditions of Certification, with the exception of Condition of Certification BIO-1. As set forth in Project Owner's Opening Testimony (Part 1), Project Owner requests that the requirements for obtaining approval of a Designated Biologist set forth in BIO-1 be revised as proposed in Opening Testimony (Part 1), Exhibit B.⁷ Project Owner has requested changes to BIO-1 in light of the Project construction schedule, as it is imperative that Project Owner obtain timely approvals for all designated resource specialists. Staff maintains that Project Owner's requested changes would not improve the objectivity or reliability of the criteria used to approve qualified biological resources personnel. However, Project Owner strongly disagrees and believes the suggested revisions to BIO-1 will ensure efficient and timely review and selection of biological resources personnel.

⁷ These proposed revisions were also made in Project Owner's comments on the Preliminary Staff Assessment ("PSA") and during the July 12, 2016 PSA Workshop.

Project Owner believes the Committee has all the information needed to adjudicate this matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner’s Opening Testimony (Part 1), Exhibit B (TN# 214211).)

E. Cultural Resources

Project Owner concurs with Staff’s conclusions in the Cultural Resources section of the FSA Part 1. However, Project Owner and Staff still disagree on language contained in CUL-1 that relates to the selection process of a Cultural Resources Specialist (“CRS”). Project Owner has requested certain revisions to CUL-1 that will ensure an objective mechanism by which a qualified CRS is chosen while eliminating the possibility of well-qualified individuals being wrongly prevented from the selection process. Staff disagrees with Project Owner’s approach regarding the selection process of a CRS.

Project Owner believes the Committee has all the information needed to adjudicate this matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner’s Opening Testimony (Part 1), Exhibit C (TN# 214211).)

F. Geology

Project Owner concurs with Staff’s conclusions and agrees with the Conditions of Certification set forth in the FSA Part 1 pertaining to Geology, with the exception of GEO-3. As stated in its Opening Testimony (Part 1), Exhibit H, Condition of Certification GEO-3 is unnecessary, onerous, and contains requirements that should not be applied to a private entity. Although Staff states that GEO-3 requires that the Tsunami Hazard Mitigation Plan “complies with the recommendations and procedures provided by the city of Huntington Beach or Orange County,” no LORS exist requiring such a condition, and no significant environmental impact has been identified requiring such “mitigation.” GEO-3 should not be adopted.

Project Owner believes the Committee has all the information needed to adjudicate this matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner’s Opening Testimony (Part 1), Exhibit H (TN# 214211).)

G. Paleontological Resources

Project Owner concurs with Staff’s conclusions in the Paleontological Resources section of the FSA Part 1 and agrees with the Paleontological Resources Conditions of Certification, with the exception of PAL-1. At numerous points in this proceeding, Project Owner has requested specific language be added to the Verification of Staff’s proposed Condition of Certification PAL-1 related to the Paleontological Resource Specialist (“PRS”). Staff disagrees with Project Owner’s proposed revisions to PAL-1. Similar to the proposed revisions to BIO-1 and CUL-1, disapproval of a PRS should be for documented noncompliance or performance issues, as well as for not having applicable qualifications for specific paleontological resources identified in the Project area. Project Owner’s suggested revisions to PAL-1 address these issues.

While Paleontological Resources is a contested subject area, Project Owner believes the Committee has all the information needed to adjudicate this matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner’s Opening Testimony (Part 1), Exhibit I (TN# 214211).)

H. Visual Resources

With the exception of VIS-1, Project Owner agrees with the Conditions of Certification set forth in the FSA Part 1. Regarding VIS-1, Project Owner and Staff agree to revised language as set forth in Energy Commission Staff’s Prehearing Conference Statement (Revised) (TN# 214452) and as captured in FSA Part 2. Project Owner disagrees, however, with Staff’s conclusion that impacts to visual resources are significant without mitigation. While Visual

Resources is a contested subject area, Project Owner believes the Committee has all the information needed to adjudicate the matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner's Opening Testimony (Part 1) (TN# 214211).)

I. Compliance

Project Owner agrees with the Conditions of Certification set forth in the FSA Part 1 pertaining to Compliance, with the exception of certain language in conditions COM-3, COM-4, COM-13, COM-14, and COM-15 as set forth in Project Owner's Opening Testimony (Part 1) relating to Compliance Conditions of Certification. (*See* Project Owner's Opening Testimony (Part 1) (TN# 214211, Exhibit K).) Although Staff failed to address Project Owner's Compliance testimony in its Rebuttal Testimony (Part 1), Staff's original Prehearing Conference Statement indicates that Staff concurs with Project Owner's proposed changes to COM-13 and COM-14. Therefore, only conditions COM-3, COM-4, and COM-15 remain contested at this time.⁸ The Committee should adopt Project Owner's proposed changes to COM-3, COM-4, and COM-15 based on the reasons set forth in Project Owner's Opening Testimony (Part 1). (*See* Project Owner's Opening Testimony (Part 1), Exhibit K (TN# 214211).)

While certain Compliance Conditions of Certification remain contested, Project Owner believes the Committee has all the information needed to adjudicate this matter based on the written testimony of the parties and does not believe live testimony is needed. (*See* Project Owner's Opening Testimony (Part 1) (TN# 214211).)

⁸ Staff indicated in its PHC Statement Part 1 that COM-11 is a contested condition. However, Project Owner has not noted COM-11 as a contested condition and, in fact, agrees with the condition as proposed in FSA Part 1.

V. PROJECT OWNER’S WITNESSES

Project Owner presents below a comprehensive list of uncontested and contested subject areas, as well as the identified witnesses for each subject area.

A. Uncontested Subject Areas

Below is a list of uncontested subject areas. Witnesses for all uncontested subject areas have provided written testimony either via declaration (and the documents cited therein) and/or in written testimony via Project Owner’s Opening Testimony (Part 1) (TN# 214211), Project Owner’s Rebuttal Testimony (Part 1) (TN# 214361), Project Owner’s Opening Testimony (Part 2) (TN# 214756), and Project Owner’s Rebuttal Testimony (Part 2) (TN# 214796).) As such, Project Owner will not present live testimony for uncontested topics.⁹

In addition, for brevity, Project Owner does not provide herein a summary of testimony for uncontested topics or a summary of the witness’s qualifications. Witness qualifications are set forth in each witness’s respective qualifications attached to his or her declaration previously submitted and identified on Project Owner’s Exhibit List.

Uncontested Subject Area	Witness(es) & Declaration TN#s
Executive Summary & Project Description ¹⁰	Stephen O’Kane (TN#s 214193, 214743 & 214790) Jerry Salamy (TN#s 214192, 214742 & 214789)
Hazardous Materials Management	Jerry Salamy (TN# 214192)
Land Use ¹¹	Stephen O’Kane (TN# 214193) Seth Richardson (TN# 214194)
Public Health	Stephen O’Kane (TN#s 214743 & 214790)

⁹ As noted in Section II above, should the Committee request to question a particular witness identified in the list of uncontested topics, Project Owner will make every effort to ensure the witness can appear by telephone during the December 21, 2016 Evidentiary Hearing.

¹⁰ While Project Owner considers this topic uncontested, Project Owner has comments on this subject area, which are set forth in **Attachment A** hereto.

¹¹ See FN11, *supra*.

Uncontested Subject Area	Witness(es) & Declaration TN#s
	Jerry Salamy (TN#s 214742 & 214789)
Soils	Jennifer Krenz-Ruark (TN# 214180)
Water Resources	Matt Franck (TN# 214182)
Socioeconomics	Fatuma Yusuf, Ph.D. (TN# 214177)
Transmission Line Safety & Nuisance	Robert Sims (TN# 214187)
Waste Management	Jerry Salamy (TN# 214192)
Worker Safety & Fire Protection	Jerry Salamy (TN# 214192)
Facility Design	Stephen O’Kane (TN # 214193)
Power Plant Efficiency	Stephen O’Kane (TN# 214193)
Power Plant Reliability	Stephen O’Kane (TN# 214193)
Transmission System Engineering	Robert Sims (TN# 214187)
Alternatives	Stephen O’Kane (TN# 214193) Jerry Salamy (TN# 214192)

In Project Owner’s Opening Testimony (Part 1), Rebuttal Testimony (Part 1), Supplemental Testimony of Stephen O’Kane, and Prehearing Conference Statement (Part 1), Project Owner provided proposed revisions to a number of Conditions of Certification. In many instances, Staff agreed with Project Owner’s proposed revisions.¹² Thus, these agreed-upon Conditions of Certification are now uncontested. In **Attachment B** hereto, Project Owner sets forth a clean version of the agreed-upon language for the following conditions: CUL-2, CUL-4, LAND-1, SOIL&WATER-2, SOIL&WATER-3, VIS-1, TLSN-1, TLSN-2, WASTE-5, COM-13, and COM-14.

B. Contested Topics

As previously stated, few topics are contested in this proceeding. In fact, most of the subject areas with contested issues are focused specifically on language contained in Conditions of Certification. Thus, Project Owner believes that the Committee can make its findings based

¹² See Staff’s Rebuttal Testimony (TN# 214358), Pre-Hearing Conference Statement (TN# 214451), Pre-Hearing Conference Statement (Revised) (TN# 214452), and FSA Part 2.

on the parties' written testimony and related witness declarations submitted for the following topics: Geology (GEO-3), Biological Resources (BIO-1), Cultural Resources (CUL-1), Paleontological Resources (PAL-1), Visual Resources conclusion, and Compliance (COM-3, COM-4, and COM-15). Project Owner does not intend to present live witnesses for the aforementioned topics. However, should the Committee or the Hearing Officer wish to question any of the witnesses, Project Owner will endeavor to ensure the witness is available either by phone or in person.

Contested Subject Area	Witness(es) & Declaration TN#
Air Quality (live testimony)	Stephen O'Kane (TN#s 214743 & 214790) Jerry Salamy (TN#s 214742 & 214789) Elyse Engel (TN# 214741)
Biological Resources	Stephen O'Kane (TN#s 214193, 214743 & 214790) Melissa Fowler (TN# 214183)
Cultural Resources	Stephen O'Kane (TN#s 214193, 214743 & 214790) Natalie Lawson (TN# 214184)
Noise & Vibration (live testimony)	Stephen O'Kane (TN#s 214193, 214743 & 214790) Jerry Salamy (TN#s 214192, 214742 & 214789) Mark Bastasch (TN# 214181 & TN# 214788)
Visual Resources	Thomas Priestley, Ph.D. (TN# 214186)
Traffic & Transportation (live testimony)	Stephen O'Kane (TN#s 214193, 214743 & 214790) Jerry Salamy (TN#s 214192, 214742 & 214789) Lisa Valdez (TN# 214179)
Geology	Stephen O'Kane (TN#s 214193, 214743 & 214790) Jerry Salamy (TN#s 214192, 214742 & 214789) Thomas A. Lae (TN# 214185)
Paleontological Resources	Stephen O'Kane (TN#s 214193, 214743 & 214790) Jerry Salamy (TN#s 214192, 214742 & 214789) James Verhoff (TN# 214178)
Compliance	Stephen O'Kane (TN#s 214193, 214743 & 214790)

As noted above, certain Conditions of Certification set forth in Air Quality, Noise and Vibration, and Traffic and Transportation are contested and, unless resolved prior to the

December 21, 2016 Evidentiary Hearing, Project Owner will present live testimony for such topics.

Pursuant to the December 7 Order, below Project Owner provides additional information regarding its witnesses for the subject areas of Air Quality, Noise and Vibration, and Traffic and Transportation, as well as a summary of each witness's qualifications for these subject areas, and a brief summary of the witness's testimony related thereto. In addition, Project Owner identifies the time required for direct examination, and whether telephonic appearance is required for any of the witnesses. Should Staff present any witness for these topics, Project Owner expects to conduct cross-examination of such witness(es).

1. Air Quality

Witnesses and Summary of Qualifications: Stephen O'Kane, Jerry Salamy, and Elyse Engel will testify on the subject of Air Quality. Summaries of Mr. O'Kane's, Mr. Salamy's and Ms. Engel's qualifications are set forth below.

Stephen O'Kane: Mr. O'Kane is the Vice-President of AES Huntington Beach Energy LLC, and is the Manager of Sustainability and Regulatory Compliance. He has over 20 years of experience in energy and environmental assessment and project development, including assignments as project manager for regulatory applications for the development of new thermal generation projects and applications for certification before the CEC. In addition to managing, directing, or contributing to the licensing and permitting process for development projects, he has also prepared environmental assessments, air quality analyses, and permit applications, prepared project feasibility studies, managed facility compliance systems, and prepared sustainability plans for projects and organizations in the energy industry. Mr. O'Kane has a Bachelor of Science degree and a Master of Science degree in Atmospheric Science. A list of

representative projects is included with Mr. O’Kane’s qualifications, which has been docketed in this proceeding. (Declaration of Stephen O’Kane (TN# 214193).)

Jerry Salamy: Mr. Salamy has more than 25 years of experience, including assignments as project manager for applications for certification before the California Energy commission. He also has prepared air quality permit applications, prepared feasibility studies, assessed industrial facilities with compliance with state and federal air pollution rules and regulations, and assisted power plant clients with compliance-related issues. Mr. Salamy has a Bachelor of Arts degree in Chemistry. A list of representative projects is included with Mr. Salamy’s qualifications, which previously has been docketed in this proceeding. (Declaration of Jerry Salamy (TN# 214192).)

Elyse Engel: Ms. Engel is a chemical process engineer in the Environment & Nuclear Services Business Group, specializing in air quality. She is experienced in air quality compliance, including preparing greenhouse gas emissions inventories, construction and operations air emissions estimates in support of California Environmental Quality Act and National Environmental Policy Act evaluations, air dispersion modeling, human health risk assessments, and risk management plans. She has more than eight years of engineering experience and has taken graduate-level courses in Chemical Engineering and Air Pollution Chemistry. Ms. Engel has a Bachelor of Science degree in Chemical Engineering. A list of representative projects is included with Ms. Engel’s qualifications, which has been docketed in this proceeding. (Declaration of Elyse Engel (TN# 214741).)

Summary of Testimony: Project Owner requests that written CPM approval of termination of an Air Quality Construction Mitigation Manager be removed from AQ-SC1. Staff’s proposed change is unnecessary and overly burdensome. Project Owner shall be able to terminate an employee or contractor without CPM approval. In addition, Project Owner requests

that the references to the specific amounts of ERCs required by AQ-SC9 be deleted from the Condition. SCAQMD permit conditions or ERC values can be changed upon the SCAQMD's or Project Owner's request, and such changes should occur without a need for a PTA, provided they are not associated with a corresponding change in operating condition. Any change due to a rule change, emission factor change, or change of equipment in kind or any other change not requiring California Environmental Quality Act ("CEQA") review should be automatically and administratively changed in the Conditions of Certification. There is no basis for subjecting such change(s) to the CEC PTA process, which involves significant time and resources on the part of both the Project Owner and CEC Staff, and where the CEC has no ability to overrule federal rules. As currently proposed, AQ-SC9 creates needless review over the SCAQMD and forces a PTA every time the Project Owner makes any adjustments and at the five year review cycle of the Title V permit when the SCAQMD will review and update against rule changes.

Time Required for Testimony: Assuming this topic is not resolved at the Prehearing Conference and requires live testimony, Project Owner anticipates a panel discussion. Direct examination as to this topic may require twenty (20) minutes.

Telephonic Appearance Required: Yes.

2. Noise and Vibration

Witnesses and Summary of Qualifications: Stephen O'Kane, Jerry Salamy, and Mark Bastasch will testify on the subject of Noise and Vibration. Summaries of Mr. O'Kane's and Mr. Salamy's qualifications are set forth above. Mr. Bastasch's qualifications are set forth below.

Mark Bastasch: Mark Bastasch is a registered acoustical engineer with 16 years of experience conducting acoustical evaluations, environmental audits, contamination assessments, and multimedia environmental permitting. For the past decade, Mr. Bastasch has provided technical insight, forethought and leadership on acoustical matters to the renewable power

industry, and its partners and has been an invited speaker to organizations such as Harvard Law School/Consensus Building Institute. Mr. Bastasch's power permitting and design experience spans the United States and he has supported multiple Equipment Procurement Contractor efforts both domestically and internationally, which have fully complied with applicable regulatory limits. Mr. Bastasch has a Bachelor of Science degree and a Master of Science degree in Environmental Engineering. A list of representative projects is included with Mr. Bastasch's qualifications, which was previously docketed in this proceeding. (Declaration of Mark Bastasch (TN# 214181).)

Summary of Testimony: Staff proposed additional revisions to Condition of Certification 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. The Project Owner is committed to limiting the hours of noisy construction activities, including those at the Plains All-American Tank Farm, to the hours specified in NOISE-6. In addition, the Project Owner is bound by NOISE-2. 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 (or TRANS-3) from FSA Part 1 to FSA Part 2. In addition, noise from the Plans site 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 or the use of the parking and laydown areas, including staging and deliveries, prior to 7:00 a.m.

Time Required for Testimony: Assuming this topic is not resolved at the Prehearing Conference and requires live testimony, Project Owner anticipates a panel discussion on NOISE-6 and TRANS-3. (*See* FN6, *supra*.) Direct examination as to this topic may require twenty (20) minutes.

Telephonic Appearance Required: Yes.

3. Traffic and Transportation

Witnesses and Summary of Qualifications: Stephen O’Kane, Jerry Salamy, and Lisa Valdez will provide testimony on the topic of Traffic and Transportation, as it relates specifically to construction worker parking. Summaries of Mr. O’Kane’s and Mr. Salamy’s qualifications are set forth above. Ms. Valdez’s qualifications are set forth below.

Lisa Valdez: Ms. Valdez is a transportation planner with more than 18 years of experience managing and preparing transportation and environmental analyses in accordance with the National Environmental Policy Act and the California Environmental Quality Act. She has expertise in preparing long range transportation plans, traffic management plans, corridor studies, traffic impact analyses, parking demand and supply studies, pedestrian needs assessments, trip generation studies, critical issues analyses, due diligence studies, and Environmental Impact Studies, Environmental Impact Reports, and applications for certification. Ms. Valdez is a trained field and safety coordinator. She has a Bachelor of Arts degree in Environmental Studies, and a Master of City and Regional Planning degree. A list of representative projects on which Ms. Valdez has worked was previously docketed in this proceeding. (*See* Declaration of Lisa Valdez (TN# 214210).)

Summary of Testimony: In FSA Part 2, Staff CEC added new requirements to the Traffic Control Plan required by TRANS-3, restricting construction worker arrival times, parking and staging, and timing of truck deliveries. The City asserts these restrictions are based on the Project's need to comply with City noise LORS. The new requirements in TRANS-3 are unnecessary because Condition of Certification NOISE-6, as set forth in FSA Part 1, fully addresses the City's comments. Specifically, existing Condition of Certification NOISE-6 incorporates the City's Noise Element requirements related to construction noise. Moreover, the new restrictions in TRANS-3 are unnecessarily burdensome. There are no LORS prohibiting the use of public roads by workers to access their workplace. By prohibiting workers from arriving onsite or parking at designated offsite parking areas prior to 7:00 a.m., Staff is essentially ensuring that construction workers will park in other nearby public areas while they wait to arrive onsite or park at designated offsite parking areas. If construction workers are not allowed to arrive onsite or park at designated offsite parking areas prior to 7:00 a.m., Project Owner has no control over where the workers will be queuing while waiting for the specified opening time of the site or designated offsite parking areas. Further, it is critical to maintain the project construction schedule, and unnecessary restrictions on construction worker arrival times will unnecessarily delay and extend the duration of construction activities.

Project Owner understands the City's comments regarding timing for review of engineering plans and drawings for the design and reconfiguration of the Magnolia/Banning intersection. In order to ensure the City has adequate time to review and comment on the plan/drawings prior to CBO approval, however, Project Owner proposes an additional revision to TRANS-8 to provide the plans to the CBO 30 days prior to construction, which will ensure that the City has adequate time to review and comment on the engineering plan/drawings and Project

Owner has adequate time to make any necessary revisions in response to City comments, prior to submitting to the CBO for review and approval.

Time Required for Testimony:¹³ Assuming this topic is not resolved at the Prehearing Conference and requires live testimony, Project Owner anticipates a panel discussion on NOISE-6 and TRANS-3. (*See FN6 supra.*). Direct examination as to this combined topic may require twenty (20) minutes. Project Owner anticipates five (5) minutes for direct examination regarding TRANS-8.

Telephonic Appearance Required: Yes.

VI. SUBJECT AREAS UPON WHICH PROJECT OWNER WISHES TO CROSS-EXAMINE WITNESSES

Assuming that Project Owner and Staff cannot reach agreement on Air Quality, Noise and Vibration, and Traffic and Transportation prior to the Evidentiary Hearing, Project Owner will present testimony as previously noted and will seek to cross-examine Staff's witness(es) accordingly. Project Owner requests the following time for cross-examination of Staff's witnesses (if each subject area is not resolved prior to the Evidentiary Hearing and requires live testimony):

- Air Quality: approximately 15 minutes of cross-examination
- Noise and Vibration: approximately 20 minutes of cross-examination
- Traffic and Transportation: approximately 20 minutes of cross-examination

¹³ Pursuant to the Hearing Officer's Memorandum dated December 15, 2016 (TN# 214829), Project Owner will ensure the appropriate witness(es) are available during the hearing to respond to the Committee's questions.

In addition to the foregoing, should Staff present live testimony for other subject areas not identified by the Project Owner herein, Project Owner reserves the right to cross-examine Staff's witnesses and requests at least ten (10) minutes per witness for such cross-examination.

VII. PROJECT OWNER'S EXHIBIT LIST

Project Owner's Exhibit List is included as **Attachment C** hereto. Each exhibit and its assigned CEC Transaction Number are identified therein. As set forth in the Committee's December 7 Order, exhibits are numbered consecutively, starting with Exhibit 5001. Project Owner's Exhibits include Exhibit 5001 through and including Exhibit 5121.¹⁴

VIII. PROPOSALS FOR BRIEFING DEADLINES AND OTHER SCHEDULING MATTERS

Because the Committee required briefing to be submitted concurrently herewith, Project Owner does not believe there is a need for post-hearing briefing of any subject matter. Nevertheless, should the Committee determine that post-hearing briefing is necessary for any topic, Project Owner advocates for an extremely aggressive briefing schedule. To that end, Project Owner believes briefing can be completed with Opening Briefs filed on or before December 29, 2016 and Reply Briefs filed on or before January 4, 2017.

Related to other scheduling matters, Project Owner reiterates the significance for maintaining an expedited schedule for this proceeding. To ensure the electric reliability in the West Los Angeles Basin, Project Owner requests that the Committee publish the Presiding Member's Proposed Decision as soon as possible after the December 21, 2016 Evidentiary Hearing.

¹⁴ Project Owner reserves the right to add exhibits prior to the close of the evidentiary record beyond those presented in Attachment C.

IX. LEGAL BRIEFING AS SET FORTH IN THE DECEMBER 2 ORDER

Pursuant to the Committee's December 2, 2016 and December 7, 2016 Orders, Project Owner sets forth below its legal briefs relating to a) the applicable statutes under which the Report from the Coastal Commission should be considered by the Committee; and b) whether California Water Code, section 10910(h) applies to the Project's Water Supply Assessment.

A. The Committee Shall Consider the Coastal Commission's "Report" as "Comments" Pursuant to Public Resources Code Section 30413(e)

1. Section 30413(e) of the Coastal Act Sets Forth the Role of the Coastal Commission in the HBEP Petition to Amend Proceedings

The Warren-Alquist Act provides the CEC with exclusive jurisdiction regarding the siting, design, and permitting of thermal power plants in California. (Pub. Resources Code §§ 25000 *et seq.*) Public Resources Code Section 25500 provides:

The commission shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

Within this exclusive jurisdiction framework, the Warren-Alquist Act and the Coastal Act both expressly allow for Coastal Commission participation in CEC proceedings involving the siting of power plants in the coastal zone. (Pub. Resources Code §§ 25507, 25508, 25519(d), 25523(b), 30413.) Specifically, in a notice of intention ("NOI") process for new power plant sites and related facilities, Coastal Commission participation is mandated. (Pub. Resources Code §§ 25507, 25508, 30413(d).) In an Application for Certification ("AFC") proceeding, for facilities on sites previously certified through the NOI process or for power plants exempt from

the NOI process, such as natural-gas fired facilities, Coastal Commission involvement is permissible, but not mandated. (Pub. Resources Code §§ 25519(d), 25523(b), 30413(e).)¹⁵

The Amended HBEP is a modification to the existing Licensed HBEP, which completed the AFC process with the issuance of a CEC Final Decision on October 29, 2014. Coastal Commission participation in an amendment proceeding, if any, is in the form of comments, not a report.

The Coastal Commission mistakenly assumed that since the Coastal Commission chose to provide comments in the Amended HBEP proceedings before the CEC, the requirements of Section 30413(d) apply. This is incorrect.

As Project Owner noted in its September 2, 2016 letter to CEC Staff (TN# 213478; Exhibit 5036) and as the FSA correctly states, regardless of the title of the Coastal Commission's Comments, any participation by the Coastal Commission in the form of comments or "report" submitted during the Amended HBEP PTA proceedings is, as a matter of law, discretionary pursuant to Public Resources Code section 30413(e).¹⁶ Further, the Comments are contrary to the Final Decision, are not supported by evidence in the evidentiary record for the HBEP PTA proceeding, and are unnecessary.¹⁷ Therefore, the recommendations contained in the Comments should be rejected.

¹⁵ The role of the Coastal Commission in CEC proceedings was addressed at length in the AFC proceeding for the Licensed HBEP. Arguments submitted by the Applicant in the Licensed HBEP AFC proceeding are incorporated herein by reference, and are available in, but may not be limited to, TN#s 202669, 202959, 202980, and 67020.

¹⁶ Section 30413(e) provides: "The commission may, at its discretion, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority. In the event the commission participates in any public hearings held by the State Energy Resources Conservation and Development Commission, it shall be afforded full opportunity to present evidence and examine and cross-examine witnesses."

¹⁷ In the underlying AFC proceeding, the Final Decision analyzed each comment and proposed mitigation measure received from the Coastal Commission. The Final Decision notes that it "incorporates . . . the
(continued . . .)

The Coastal Commission’s Comments should not be reviewed or treated as a “30413(d) Report” as so labeled by the Coastal Commission. As noted above, Public Resources Code section 30413(d) only applies to NOI proceedings. Specifically, Section 30413(d) provides that “the [Coastal] commission shall analyze each *notice of intention* and shall, prior to completion of the preliminary report required by Section 25510, forward to the [CEC] a written *report* on the suitability of the proposed site and related facilities specified in that notice.” The language of Section 30413(d) is abundantly clear on its face that the requirements for a “report” from the Coastal Commission pertain to NOI proceedings. While NOI proceedings are required for certain kinds of powerplant siting, new thermal natural gas-fired powerplant facilities are statutorily exempt from the NOI process. (Pub. Resources Code, § 25540.6(a)(1).) The Amended HBEP is not in a NOI proceeding at the CEC.

The Coastal Commission Comments inappropriately cite to an April 14, 2005 Memorandum of Agreement (“MOA”) between the CEC and the Coastal Commission¹⁸ as

(. . . continued)

Report recommendations for further mitigation to the extent they are feasible and would not result in a greater adverse impact. The feasibility of any proposed mitigation in the July 2014 Report is measured, in part, against whether the record establishes the existence of an impact and whether the proposed mitigation is then proportionate to that identified impact. (See, e.g. CEQA Guidelines, tit. 14, §§ 15126.4, subd. (a)(4)(B); 15364.)” (Final Decision at p. 6.1-13 (emphasis added).) For the Amended HBEP, there are no impacts in the issue areas raised by the Coastal Commission that are greater than those previously analyzed- in fact, the same issues were previously adjudicated in the Licensed HBEP Final Decision. Thus, no mitigation, conditions, or recommendations as set forth in the Comments are “feasible.”

¹⁸ The Commissions’ outline of their “respective roles and responsibilities” in the MOA does not, and cannot, change statutory requirements. The MOA is not law. The intentions set forth in the MOA for Coastal Commission participation in AFC proceedings do not negate the direction provided to the Coastal Commission in the Coastal Act. The entire lawmaking authority of the State of California is vested in the legislature. (*County of Sonoma v. Comm’n on State Mandates* (2000) 84 Cal.App.4th 1264, 1280.) As administrative agencies, the limits of the Coastal Commission’s and the CEC’s powers and authority are defined in their enabling statutes, and as administrative agencies, they cannot “expand or enlarge [their] power in the absence of either express or implied legislative authority.” (*Am. Fed’n of Labor v. Unemployment Ins. Appeals Bd.* (1996) 13 Cal.4th 1017, 1041; *20th Century Ins. Co. v. Quackenbush* (1998) 64 Cal.App.4th 135, 139 (“An administrative agency or official may exercise only those powers conferred by statute.”).) The CEC sought to encourage Coastal Commission participation in AFC

(continued . . .)

“describ[ing] the manner in which the two Commissions will coordinate their respective reviews and identifies the process for the CEC to consider the Coastal Commission’s findings and recommended specific provisions.” (Coastal Commission Comments at p. 5.) The express language of the MOA, however, states that “[t]he purpose of this agreement is to ensure timely and effective coordination between the Energy Commission and the Coastal Commission during the Energy Commission’s review of an Application for Certification (AFC) of a proposed site and related facilities under Energy Commission jurisdiction.” (Emphasis added.) The MOA does not pertain to PTA proceedings.

As discussed above, the obligations of the Coastal Commission with respect to a PTA are clear under the plain language of the Coastal Act. Project Owner acknowledges that the Coastal Commission may choose to participate in any CEC-related proceedings. In fact, the Public Resources Code makes it abundantly clear that, for non-NOI CEC proceedings, the Coastal Commission has discretion to participate: “The commission *may*, at its *discretion*, participate fully in other proceedings conducted by the State Energy Resources Conservation and Development Commission pursuant to its powerplant siting authority.” (Pub. Resources Code § 30413(e) (emphasis added).)

Regardless of the title of the Coastal Commission Comments, any written comments or “report” provided by the Coastal Commission in the Amended HBEP PTA proceedings are as a matter of law participation by the Coastal Commission pursuant to Section 30413(e) and not a “report” as defined in Section 30413(d). Thus, the CEC shall treat the Comments as comments of an interested agency.

(. . . continued)

proceedings for coastal facilities, both by proposing and signing the MOA, and by directly requesting participation, but these acts in no way legally bind the CEC to treat the Coastal Commission Comments in this or any other PTA proceeding - or an AFC proceeding - as anything more than comments from an interested agency as contemplated by Section 30413(e) of the Coastal Act.

CEC Staff concurs. As set forth in detail in the FSA Part 1 (TN# 214025), any participation by the Coastal Commission in PTA proceedings is discretionary and any comments provided by the Coastal Commission are to be afforded due deference as from an interested agency. Thus, comments submitted by the Coastal Commission during a PTA proceeding shall be treated in the same fashion as comments submitted by any other interested agency in a PTA proceeding. There are no requirements in the Warren-Alquist Act, the Coastal Act, or the MOA between the CEC and the Coastal Commission for the Coastal Commission to provide a 30413(d) report in a Section 1769 proceeding to amend a Final Decision. Moreover, Staff adequately addressed the Coastal Commission's comments in FSA Part 1. No additional responses, consideration, or findings are necessary.

As noted by CEC Staff:

The scope of the analysis conducted by staff in a proceeding brought under Section 1769 is limited to an evaluation of the incremental impacts, if any, of the proposed modifications to the project on the environment, as well as a determination of the consistency of the proposed modifications with the applicable LORS. The analysis of the proposed changes must be consistent with the requirements of CEQA Guidelines section 15162, which limits additional environmental review to any "substantial changes" that will result in greater environmental impacts than what was analyzed in the Final Decision. Under section 15162, the Energy Commission may rely on the Final Decision for areas that will not have substantial changes. Here, staff has concluded that the proposed modifications to the project do not include any "substantial changes" that would result in any new significant environmental impacts or a substantial increase in the severity of previously identified significant effects that would require additional analysis.

In accordance with § 1744(e) of the Commission's regulations, staff gives due deference to a local agency's assessment. As section 1744(e) states that "comments and recommendations by an interested agency on matters within that agency's jurisdiction shall be given due deference by Commission staff." Due deference must be given in circumstances where an interested agency provides substantial evidence on matters within that agency's jurisdiction that would justify a recommended change or addition to the Commission's Final Decision on a project. To give "due deference" to an interested agency is not to say that the Commission must blindly follow the recommendations of that agency. Pursuant to section 1748(e) of the Commission's regulations:

The proponent of any additional condition, modification, or other provision relating to the manner in which the proposed facility should be designed, sited, and operated in order to protect environmental quality and ensure public health and safety shall have the burden of making a reasonable showing to support the need for and feasibility of the condition, modification, or provision. (emphasis added.)

Here, the Coastal Commission had previously submitted comments and recommendations on the Commission's Final Decision on the Huntington Beach Energy Project that included additional conditions of certification which were accepted and implemented where feasible. However, some of the recommendations of the Coastal Commission were rejected as being infeasible or not otherwise supported by the evidentiary record, recommendations that are repeated in the Coastal Commission's latest comments. While due deference should certainly be afforded to the Coastal Commission, it would be improper to re-open the underlying evidentiary proceeding and re-litigate those issues that have been previously addressed, or implement measures that are not supported by the evidentiary record.

There is no new information that was unknown, or could not have been introduced, in the original proceeding, and no physical changes associated with the HBEP related to wetlands on the project site or project-related parking areas that would justify the re-opening of the final decision and re-litigating this issue.

(FSA at pp. 1-6 - 1-7 (emphasis added).)

Project Owner reiterates that the Coastal Commission's "report" should be treated as "comments" submitted by an interested agency, as contemplated by Section 25519(b) of the Warren-Alquist Act and Section 30413(e) of the Coastal Act. Because the "report" is not a 30413(d) report, the CEC is not required to make the findings set forth in Section 25523(b). Further, as Project Owner previously indicated in Project Owner's Additional Response to Coastal Commission Comments (TN# 213478), the comments and recommendations submitted by the Coastal Commission are not supported by evidence in the evidentiary record for the Amended HBEP PTA proceeding and/or were already addressed and decided in the underlying AFC proceeding and, thus, should be rejected.

B. Water Code Section 10910(h) Applies to the Amended HBEP

The Amended HBEP proposes to use 120 acre-feet per year (“AFY”) of water, less than the 134 AFY approved by the CEC in October 2014 for the Licensed HBEP. Water Code section 10910(h) provides:

[I]f a project has been the subject of a water supply assessment that complies with the requirements of this part, no additional water supply assessment shall be required for subsequent projects that were part of a larger project for which a water supply assessment was completed and that has complied with the requirements of this part and for which the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), has concluded that its water supplies are sufficient to meet the projected water demand associated with the proposed project, in addition to the existing and planned future uses, including, but not limited to, agricultural and industrial uses, unless one or more of the following changes occurs:

(1) Changes in the project that result in a substantial increase in water demand for the project.

(2) Changes in the circumstances or conditions substantially affecting the ability of the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), to provide a sufficient supply of water for the project.

(3) Significant new information becomes available which was not known and could not have been known at the time when the assessment was prepared.

(Emphasis added.)

Here, CEC Staff conducted a Water Supply Assessment (“WSA”) in the underlying AFC proceeding for the Licensed HBEP. The WSA was relied on in Final Decision for the Licensed HBEP, which concluded that the City had adequate water supplies available for the Licensed HBEP. (2014 Final Decision at p. 5.2-23 (TN# 214116).)

The Amended HBEP proposes to use 14 AFY less water than the Licensed HBEP. There is no evidence of any changes in circumstances or conditions substantially affecting the City’s ability to provide a sufficient supply of water to the Amended HBEP. Lastly, no significant new

information is available now that was not available when the WSA was prepared. Thus, no WSA is required for the Amended HBEP. (Water Code § 10910(h); *see also* December 11, 2015 letter from the City of Huntington Beach to CEC Staff (TN# 207017).)

The Amended HBEP is also not a “project” as defined in Water Code section 10912. (*See also* FSA at p. 4.9-11). In the October 17, 2016 FSA Part 1, Staff noted the following:

The 2014 Decision found that a Water Supply Assessment (WSA) should be prepared for HBEP. The conclusion was that the project had an adequate and reliable water supply. It was also concluded that HBEP would use significantly less water than the existing Huntington Beach Generation Station while generating more energy. HBEP was said to create a net beneficial impact on local water supplies.

(FSA Part 1 at p. 4.9-2.) Staff then went through a detailed discussion of water supplies and the Water Code WSA requirements, demonstrating that the Amended HBEP is not a “project” that requires a WSA as defined by Water Code section 10912. (FSA at pp. 4.9-7 - 4.9-11.)

Specifically, Staff concludes

the [Amended] HBEP proposes to use up to 120 AFY, which is below the lowest estimate of use per 500 dwelling units, 126 AFY. HBEP would therefore not be considered a project” under Water Code Section 10912. This conclusion is in agreement with the letter provided by the city of Huntington Beach Public Works Department, stating that a WSA does not need to be prepared for HBEP.

(*Id.* at 4.9-11.¹⁹) Project Owner agrees. Thus, the Amended HBEP does not require a WSA based on the plain language of Water Code section 10910(h). Further, the Amended HBEP is not a “project” under Water Code section 10912 that triggers a WSA.

¹⁹ The City’s December 11, 2015 letter (TN# 207017) states, in pertinent part:

... the HBEP annual potable water demand will be reduced to 120 acre-feet per year (AFY). This substantial reduction will lower the plant's potable water demand to less than one-half of the four Fiscal Year 2009/2010 to 2013/2014 potable water demand average of 252 AFY. This will result in a reduction of over 130 AFY on the City's potable water demand for imported and groundwater supplies.

(continued . . .)

X. PROJECT OWNER’S COMPREHENSIVE FSA COMMENTS

As part of Opening Testimony (Part 1) and Opening Testimony (Part 2), Project Owner provided certain FSA comments that the Committee must consider when drafting the proposed decision. Since these were comments on the FSA Part 1 and FSA Part 2, in most instances Staff has not addressed the comments. For convenience to the Committee, as noted in FN10, *supra*, attached hereto as **Attachment A** is a comprehensive list of Project Owner’s outstanding comments on FSA Part 1 and FSA Part 2.

XI. CONCLUSION

Project Owner is confident that the Amended HBEP PTA proceeding is ready for Evidentiary Hearings for all topics set forth in Staff’s FSA Part 1 and Part 2. 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 16, 2016

STOEL RIVES LLP



Melissa A. Foster
Kristen T. Castaños

Attorneys for Project Owner
AES HUNTINGTON BEACH ENERGY, LLC

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The letter then notes that “the City has successfully implemented water conservation activities and programs that have generated significant water demand reductions since the adoption of the 2010 Urban Water Management Plan,” including meeting “the 2020 water conservation target of 137.4 gallons per capita per day (gpcd) per SBx7-7 water conservation legislation” and achievement of “a twenty-four percent (24%) reduction in [City] potable water demands during the months of June through November of 2015 as compared to the same months in 2013.” (*Id.*) For the reasons noted above, the City indicated that it “does not intend to perform a WSA for the HBEP.”

ATTACHMENT A
PROJECT OWNER'S OUTSTANDING COMMENTS ON FSA PART 1 & FSA PART 2

In the Matter of:

**The Petition to Amend the
HUNTINGTON BEACH ENERGY PROJECT**

Docket No. 12-AFC-02C

**PROJECT OWNER'S
OUTSTANDING COMMENTS ON
FSA PART 1 & FSA PART 2**

As stated in Part X of Project Owner's Comprehensive Prehearing Conference Statement, Project Owner herein collectively sets forth all outstanding comments on the Final Staff Assessment ("FSA") Part 1 and FSA Part 2. Most, if not all, comments are corrections to language or language that should be included in the Final Decision.

EXECUTIVE SUMMARY & PROJECT DESCRIPTION

From Project Owner's Opening Testimony (Part 1), Exhibit A (TN# 214211):

As previously set forth in Project Owner's response to the City's PSA comments (TN# 212752), Project Owner has determined that it is necessary to demolish Units 1 and 2 to grade. The Project Description in FSA Part 1 did not reflect this information, but the Project Description in FSA Part 2 acknowledges that Units 1 and 2 will be demolished to grade. Project Owner brings this information to the Committee's attention to avoid confusion given the two different project descriptions in FSA Part 1 and FSA Part 2.

There is an error on page 3-7 of FSA Part 1 that should be revised. FSA Part 1 incorrectly states "The existing HBGS currently has five steam generating units (units 1, 2, 3, 4, and 5)." However, there were only four steam generating units at HBGS (Unit 5 was a peaking gas turbine).

From Project Owner's Opening Testimony (Part 2), Exhibit A (TN# 214796)

Staff provided a second Project Description in FSA Part 2, which was unnecessary as the original Project Description contained in FSA Part 1, with Project Owner's comments addressed, should be relied upon for the Project. The inclusion of two Project Descriptions may be confusing, even though the content of the two is almost identical.

For example, the following incorrect statement in the third paragraph of page 3-3 of the Project Description, set forth in FSA Part 2, should be deleted, as no grading permits or approvals from the City are required other than a lot line adjustment and an encroachment permit for any roadway work in the public right-of-way: "~~The project owner will be required to work with the city of Huntington Beach to acquire the proper permits for site grading and temporary use of the Plains All American Tank Farm during the demolition and construction activities of the amended project.~~"

AIR QUALITY

From Project Owner's Opening Testimony (Part 2), Exhibit B (TN# 214796)

On page 4.1-32 of FSA Part 2, Air Quality Table 9 the General Electric (GE) LMS-100PB carbon monoxide (CO) hourly emission rate should be 44.6 pounds per hour (lb/hr) instead of 45.7 lb/hr, based on 17 minutes of normal operation at the revised, lower CO emission rate of 4 lb/hr.

CULTURAL RESOURCES

From Project Owner's Opening Testimony (Part 1), Exhibit C (TN# 214211)

Project Owner notes that a reference to the 1.4 acre triangle of land acquired from SCE should be added to the bullet point list on page 4.2-1 of FSA Part 1. Doing so does not change any of the conclusions in the FSA as this area was analyzed in the Licensed HBEP for proposed construction laydown and construction worker parking.

LAND USE

From Project Owner's Opening Testimony (Part 1), Exhibit D (TN# 214211)

Project Owner requests an additional clarification to language set forth on page 4.5-4 of FSA Part 1 regarding the local project approvals that would have otherwise been required but for the CEC's exclusive jurisdiction over the Amended HBEP. Proposed revisions to the FSA language are shown below in **bold underline** and ~~striketrough~~:

But for the Energy Commission's exclusive authority to license the project, licensing the HBEP within the HBGS site would have required the following land use actions by the city of Huntington Beach:

- A Variance to exceed the maximum allowable structure height within the PS zone.
- A Conditional Use Permit to allow development of a Major Utility use within the PS zone. (**CHB 2016a, section 241.10**)
- A Coastal Development Permit to allow development, **including a lot line adjustment**, within the CZ overlay district. (CHB 2016a, sections **221.06, 241.10 245.06, 250.06**)

VISUAL RESOURCES (STRUC-1)

See Project Owner's Opening Testimony (Part 1), Exhibit F (TN# 214211)

The summary of STRUC-1 on page 4.12-17 of FSA Part 1 is incomplete. FSA Part 1 states, "The required timing for the STRUC-1 submittal is 60 days prior to the start of construction." Consistent with STRUC-1, this should be revised to state, "The required timing for the STRUC-1 submittal is 60 days prior to the start of **any increment of** construction."

ATTACHMENT B
AGREED-UPON CONDITIONS OF CERTIFICATION

In the Matter of:

**The Petition to Amend the
HUNTINGTON BEACH ENERGY PROJECT**

Docket No. 12-AFC-02C

**AGREED-UPON CONDITIONS OF
CERTIFICATION**

As set forth in Part V.A of the Project Owner's Comprehensive Prehearing Conference Statement, Project Owner herein provides a clean version of the agreed-upon language for the following now uncontested conditions: CUL-2, CUL-4, LAND-1, SOIL&WATER-2, SOIL&WATER-3, VIS-1, TLSN-1, TLSN-2, WASTE-5, COM-13 and COM-14.

CULTURAL RESOURCES

CUL-2 INFORMATION TO BE PROVIDED TO CRS

Prior to the start of Cultural Resources Ground Disturbances, the project owner shall provide the CRS with copies of the AFC, data responses, confidential cultural resources reports, all supplements, the Energy Commission staff's cultural resources FSA, and the cultural resources conditions of certification from the Final Decision for the project if the CRS has not previously worked on the project. The project owner shall also provide the CRS and the CPM with maps and drawings showing the footprints of the power plant, all linear facility routes, all access roads, and all laydown areas. Maps shall include the appropriate USGS quadrangles and a map at an appropriate scale (e.g., 1:24,000 and 1 inch = 200 feet, respectively) for plotting cultural features or materials. If the CRS requests enlargements or strip maps for linear facility routes, the project owner shall provide copies to the CRS and CPM. The CPM shall review map submittals and, in consultation with the CRS, approve those that are appropriate for use in cultural resources planning activities. No ground disturbance shall occur prior to CPM approval of maps and drawings, unless such activities are specifically approved by the CPM.

Maps shall include any NRHP/CRHR-eligible historic built environment resources identified in the FSA's archaeological project area of analysis.

If construction of the project would proceed in phases, maps and drawings not previously provided shall be provided to the CRS and CPM prior to the start of each phase. Written notice identifying the proposed schedule of each project phase shall be provided to the CRS and CPM.

Weekly, until ground disturbance is completed, the project construction manager shall provide to the CRS and CPM a schedule of project activities for the following week, including the identification of area(s) where ground disturbance will occur during that week.

The project owner shall notify the CRS and CPM of any changes to the scheduling of the construction phases.

The project owner shall provide the documents described in the first paragraph of this condition to new CRSs in the event that the approved CRS is terminated or resigns.

Verification:

1. At least 40 days prior to the start of ground disturbance, the project owner shall provide the CPM notice that the AFC, data responses, confidential cultural resources documents, all supplements, FSA, and Final Commission Decision have been provided to the CRS, if needed, and the subject maps and drawings to the CRS and CPM. The CPM will review submittals in consultation with the CRS and approve maps and drawings suitable for cultural resources planning activities.
2. At least 15 days prior to the start of ground disturbance, if there are changes to any project-related footprint, the project owner shall provide revised maps and drawings for the changes to the CRS and CPM.
3. At least 15 days prior to the start of each phase of a phased project, the project owner shall submit the appropriate maps and drawings, if not previously provided, to the CRS and CPM.
4. Weekly, during ground disturbance, a schedule of the next week's anticipated project activity shall be provided to the CRS and CPM by letter, e-mail, or fax.
5. Within 5 days of changing the scheduling of phases of a phased project, the project owner shall provide written notice of the changes to the CRS and CPM.
6. If a new CRS is approved by the CPM as provided for in **CUL-1**, the project owner shall provide the CPM notice that the AFC, data responses, confidential cultural resources documents, all supplements, FSA, Final Commission Decision, and maps and drawings have been provided to the new CRS within 10 days of such approval.

CUL-4 FINAL CULTURAL RESOURCES REPORT (CRR)

The project owner shall submit the final cultural resources report (CRR) to the CPM for approval. The final CRR shall be written by, or under the direction of, the CRS and shall be provided in the ARMR format. The final CRR shall report on all field activities including dates, times and locations, results, samplings, and analyses. The final CRR shall be a confidential document if it describes or maps the location(s) of cultural resources. All survey reports, DPR 523 forms, data recovery reports, and any additional research reports not previously submitted to the California Historical Resources Information System (CHRIS) shall be included as appendices to the final CRR.

If the project owner requests a suspension all construction activities for more than 30 days, then a draft CRR that covers all cultural resources activities associated with the project shall be prepared by the CRS and submitted to the CPM for review and approval. The draft CRR shall be retained at the project site in a secure facility until construction resumes or the project is withdrawn. If the project is withdrawn, then a final CRR shall be submitted to the CPM for review and approval.

Verification:

1. Within 30 days after requesting a suspension of construction activities, the project owner shall submit a draft CRR to the CPM for review and approval.
2. Within 90 days after completion of ground disturbance (including landscaping), the project owner shall submit the final CRR to the CPM for review and approval. If any reports have previously been sent to the CHRIS, then receipt letters from the CHRIS or other verification of receipt shall be included in an appendix.
3. Within 10 days after CPM approval of the CRR, the project owner shall provide documentation to the CPM confirming that copies of the final CRR have been provided to the State Historic Preservation Officer, the CHRIS, the curating institution, if archaeological materials were collected, and to the tribal chairpersons of any Native American groups requesting copies of project-related reports.

LAND USE

LAND-1: The project owner shall comply with Appendix B(g)(3)(c) of the Siting Regulations (Title 20, California Code of Regulations) by ensuring that the HBEP site, excluding linear and temporary lay down or staging area, will be located on a single legal parcel.

Verification: Prior to commercial operation of the combined cycle gas turbine (CCGT) power block, the project owner shall submit evidence to the compliance project manager (CPM) indicating approval of a Lot Line Adjustment, or other action by the city of Huntington Beach, establishing a single parcel for the CCGT power block and related facilities. The submittal to the CPM shall include evidence of compliance with all conditions and requirements associated with the approval of the Lot Line Adjustment, or other action by the city. Prior to construction of the second power block, the project owner shall submit evidence to the CPM indicating approval of a Lot Line Adjustment, or other action by the city of Huntington Beach, establishing a single parcel for the 30 acre HBEP site. The submittal to the CPM shall include evidence of compliance with all conditions and requirements associated with the approval of the Lot Line Adjustment or other action by the city.

SOIL & WATER

SOIL&WATER-2: Prior to initiation of hydrostatic testing water discharge to surface waters, the project owner shall obtain a National Pollutant Discharge Elimination System permit for discharge to the Pacific Ocean. The project owner shall comply with the requirements of the Permit Order No. R8-2009-0003, NPDES NO. CAG998001 for hydrostatic testing water discharge. The project owner shall provide a copy of all permit documentation sent to the Santa Ana Regional Water Quality Control Board or State Water Quality Control Board to the CPM and notify the CPM in writing of any reported noncompliance.

Verification: Thirty (30) days prior to the first scheduled hydrostatic testing event, the project owner shall submit to the CPM documentation that all necessary NPDES permits were obtained from the Santa Ana Regional Water Quality Control Board. Thirty (30) days prior to HBEP operation, the project owner shall submit to the CPM a copy of the relevant plans and permits received. The project owner shall submit to the CPM all copies of any relevant correspondence between the project owner and the Board regarding NPDES permits in the annual compliance report.

SOIL&WATER-3: Prior to any groundwater dewatering, the project owner shall submit a dewatering plan to the CPM for review and approval. The dewatering plan shall include maximum daily and average daily pumping rates, and total volume expected to be pumped during dewatering, as well as the dates expected to be used for dewatering. The plan shall also include estimates of drawdown that may occur at the adjacent marsh land, and identify potential mitigation, as needed, as well as describe under what circumstances such mitigation would be implemented.

Discharge of dewatering water shall comply with the Santa Ana Regional Water Quality Control Board (RWQCB) and State Water Resources Control Board regulatory requirements. The project owner shall submit a Report of Waste Discharge (RWD) to the CPM and RWQCB for determination of which regulatory waiver or permit applies to the proposed discharges. The project owner shall ensure compliance with the provisions of the waiver or permit applicable to the discharge. Where the regulatory requirements are not applied pursuant to a National Pollutant Discharge Elimination System permit, it is the Commission's intent that the requirements of the applicable waiver or permit be enforceable by both the Commission and the RWQCB. In furtherance of that objective, the Commission hereby delegates the enforcement of the waiver or permit requirements, and associated monitoring, inspection, and annual fee collection authority, to the RWQCB. Accordingly, the Commission and the RWQCB shall confer with each other and coordinate, as needed, in the enforcement of the requirements.

Verification: Prior to any dewatering water discharge, the project owner shall submit a ROWD to the RWQCB to obtain the appropriate waiver or permit and submit the dewatering plan to the CPM. The appropriate waiver or permit, as well as dewatering plan, must be obtained at least 30 days prior to the discharge. The project owner shall submit a copy of any correspondence between the project owner and the RWQCB regarding the waiver or permit and all related reports to the CPM within 10 days of correspondence receipt or submittal. The project owner shall pay all necessary fees for filing and review of the RWD and all other related fees. Checks for such fees shall be submitted to the RWQCB and shall be payable to the State Water Resources Control Board.

TRANSMISSION LINE SAFETY & NUISANCE

Staff agreed in its November 9, 2016 Prehearing Conference Statement that TLSN-1 and TLSN-2 should remain unchanged from the 2014 Final Decision, which sets forth the following language for each condition:

TLSN-1: The project owner shall construct the proposed 230-kV generator tie transmission line according to all applicable laws, ordinances, regulations, and industry standards, including the National Electric Safety Code (NESC) the requirements of California Public Utility Commission's GO-95, GO-52, GO-131-D, Title 8, and Group 2, High Voltage Electrical Safety Orders, sections 2700 through 2974 of the California Code of Regulations, and Southern California Edison's EMF Design Reduction Guidelines for Electrical Facilities.

Verification: At least 30 days prior to start of construction of the generator tie line or related structures and facilities, the project owner shall submit to the Compliance Project Manager (CPM) a letter signed by a California registered electrical engineer affirming that the lines will be constructed according to the requirements stated in the condition.

TLSN-2: The project owner shall measure the maximum strengths of the line electric and magnetic fields at the edge of the right-of-way to validate the estimates the applicant has provided for these fields. These measurements shall be made (a) according to the standard procedures of the American National Standard Institute/Institute of Electrical and Electronic Engineers (ANSI/IEEE) and, (b) before and after energization. The measurements shall be completed no later than six months after the start of operations.

Verification: The project owner shall file copies of the pre- and post-energization measurements with the CPM within 60 days after completion of the measurements. The CPM shall determine the need for further mitigation from these field measurements.

VISUAL RESOURCES

VIS-1: VISUAL SCREENING AND ENHANCEMENT PLAN FOR PROJECT STRUCTURES – PROJECT OPERATION

Prior to the start of construction the project owner shall prepare and submit a Preliminary Visual Screening and Enhancement Plan for Project Structures (Preliminary Plan) that includes methods and materials to visually screen and treat surfaces of publicly visible power plant structures.

The Preliminary Plan shall include:

- o Revised general arrangement/site plan to scale showing locations of and corridor spaces for the architectural screens/sphere walls.
- o Information on how the architectural screens will comply with City Specification No. 401 and achieve consistency with the City's adopted Resolution No. 2016-27.
- o Identity of the design firm that will plan and implement the architectural screening plan.
- o Information on how surfaces of the 50-foot-tall acoustical wall, air cooled condenser, and exhaust stacks will be treated to coordinate visually with the architectural screens.
- o Visual simulations using key observation points (KOPs) 1, 4, and 5 to accurately represent views of the architectural screens depicted on the site plan.

Prior to the start of commissioning the combined-cycle gas turbine (CCGT) units, the project owner shall prepare and submit a Detailed Visual Screening and Enhancement Plan (Detailed Plan) that includes evidence of review by a California-licensed structural or civil engineer and an assessment of the feasibility and structural integrity of the architectural and decorative screening elements contained in the Detailed Plan. The California-licensed engineer shall review and sign the Detailed Plan. Any design changes recommended by the California-licensed engineer to ensure the structural soundness and safety of the project and the architectural design elements shall be incorporated in the Detailed Plan before its submittal to the compliance project manager (CPM).

The project owner shall not submit instructions for architectural screens and other structures and colors and finishes to manufacturers or vendors of project structures, or perform final field treatment on any structures, until written approval of the final Detailed Plan is received from the CPM. Modifications to the final Detailed Plan shall not occur without the CPM's approval.

The Detailed Plan shall be consistent with Resolution No. 2016-27 adopted by the City of Huntington Beach City Council recommending visual enhancements for the site. Surface treatments for publicly visible power plant structures shall be included in the Detailed Plan. Proposed surface treatments shall minimize the potential visual effects of glare from project surfaces. Methods to visually screen and enhance the project site shall visually unify the project to the extent practicable while maintaining compliance with the City's adopted resolution.

The transmission structures for the on-site 230-kV transmission line shall have a surface treatment that enables them to blend with the environment to the greatest extent feasible, and the finish shall appear as a matte patina. Unpainted exposed lagging and surfaces of steel structures that are visible to the public shall be embossed or otherwise treated to reduce glare.

The Detailed Plan shall meet the following minimum content requirements:

- o Inventory of major project structures, sound/acoustical walls, and buildings specifying the architectural and decorative screening structures and materials to visually screen and enhance those structures. The inventory shall specify height, length, and width or diameter for each major structure, and an accurately scaled site plans and elevation views shall be included in the Plan with architectural and project structures clearly identified.
- o Color brochures, color chips, and/or physical samples for each proposed color and finish that will be applied to architectural screening structures and directly to power plant structures (e.g., paint scheme and finish types for the air cooled condenser, the exhaust stacks, and the sound wall). Proposed colors must be identified by vendor, name, and number, or according to a universal designation system. Electronic files showing proposed colors may not be submitted in place of original samples.
- o Physical sample of the plastic material that will be used to fabricate the spheres for the City's recommended sphere walls.
- o Electronic files and a set of print copies of 11-inch by 17-inch (or larger, if necessary) color visual simulations at life-size scale showing the architectural screening structures and surface treatments proposed for the project. KOP-1, KOP 4, and KOP 5 shall be used to prepare images showing the completed Detailed Visual Screening and Enhancement Plan for Project Structures.
- o Schedule for completing construction of architectural and decorative screening structures and the surface treatments for publicly visible power plant structures during the construction timeline.

o Procedure and maintenance schedule to ensure that surface treatments and architectural structures are well maintained and consistent with the approved Detailed Plan for the life of the project.

Verification: The Plan elements pertaining to screening and enhancement of the CCGT units, including the easternmost and middle screens, shall be implemented within 12 months of completing demolition of the HBGS Units 1 and 2. The Plan elements pertaining to screening and enhancement of the simple-cycle gas turbine (SCGT) units shall be implemented within 12 months of beginning commercial operation of the SCGT units.

WASTE MANAGEMENT

WASTE-5: The project owner shall prepare a Construction Waste Management Plan for all wastes generated during construction of the facility and shall submit the plan to the CPM for review and approval. The plan shall contain, at a minimum, the following:

- o a description of all construction waste streams, including projections of frequency, amounts generated, and hazard classifications;
- o management methods to be used for each waste stream, including temporary on-site storage, housekeeping and best management practices to be employed, treatment methods and companies providing treatment services, waste testing methods to assure correct classification, methods of transportation, disposal requirements and sites, and recycling and waste minimization/source reduction plans.
- o a method for collecting weigh tickets or other methods for verifying the volume of transported and or location of waste disposal; and,
- o a method for reporting to demonstrate project compliance with construction waste diversion requirements of 50 percent pursuant to the CalGreen Code and Construction and Orange County Construction & Demolition Recycling and Reuse Program.

Verification: The project owner shall submit the C&D Debris Waste Reduction and Recycling Plan to the city of Huntington Beach Department of Planning and Building for review and comment and to the CPM for approval no less than 30 days prior to the initiation of demolition and construction activities at the site.

COMPLIANCE

COM-13: Incident-Reporting Requirements. The project owner shall notify the CPM within one (1) hour after it is safe and feasible of any incident at the facility that results in any of the following:

1. An event of any kind that causes a “Forced Outage” as defined in the CAISO tariff;

2. The activation of onsite emergency fire suppression equipment to combat a fire;
3. Any chemical, gas or hazardous materials release that could result in potential health impacts to the surrounding population; create an off-site odor issue; and or
4. Notification to, or response by any off-site emergency response, federal state, or local agency regarding a fire, hazardous materials release, on-site injury, or any physical or cyber security incident.

Notification shall describe the circumstances, status, and expected duration of the incident. If warranted, as soon as it is safe and feasible, the project owner shall implement the safe shutdown of any non-critical equipment and removal of any hazardous materials and waste that pose a threat to public health and safety and to environmental quality (also, see specific conditions of certification for the technical areas of Hazardous Materials Management and Waste Management.

Within 6 business days of the incident, the project owner shall submit to the CPM a detailed incident report, which includes, as appropriate, the following information:

5. a brief description of the incident, including its date, time, and location;
6. a description of the cause of the incident, or likely causes if it is still under investigation;
7. the location of any off-site impacts;
8. description of any resultant impacts;
9. a description of emergency response actions associated with the incident;
10. identification of responding agencies;
11. identification of emergency notifications made to federal, state, and/or local agencies;
12. identification of any hazardous materials released and an estimate of the quality released;
13. a description of any injuries, fatalities, or property damage that occurred as a result of the incident;
14. fines or violations assessed or being processed by other agencies;
15. name, phone number, and e-mail address of the appropriate facility contact person having knowledge of the event; and
16. corrective actions to prevent a recurrence of the incident.

The project owner shall maintain all incident report records for the life of the project, including closure. After the submittal of the initial report for any incident, the project owner shall submit to the CPM copies of incident reports within 48 hours of a request.

COM-14 Non-Operation and Repair/Restoration Plans. If the facility ceases operation temporarily (excluding planned and unplanned maintenance) for longer

than one(1) week (or other CPM-approved date), but less than three (3) months (or other CPM-approved date), the project owner shall notify the CPM. Notice of planned non-operation shall be given at least two (2) weeks prior to the scheduled date. Notice of unplanned non-operation shall be provided no later than one (1) week after non-operation begins.

For any non-operation, a Repair/Restoration Plan for conducting the activities necessary to restore the facility to availability and reliable and/or improved performance shall be submitted to the CPM within one (1) week after notice of non-operation is given. If non-operation is due to an unplanned incident, temporary repairs and/or corrective actions may be undertaken before the Repair/Restoration Plan is submitted. The Repair/Restoration Plan shall include:

1. a identification of operational and non-operational components of the plant;
2. a detailed description of the repair and inspection or restoration activities;
3. a proposed schedule for completing the repair and inspection or restoration activities;
4. an assessment of whether or not the proposed activities would require changing, adding, and/or deleting any conditions of certification, and/or would cause noncompliance with any applicable LORS; and
5. planned activities during non-operation, including any measures to ensure continued compliance with all conditions of certification and LORS.

Written monthly updates (or other CPM-approved intervals) to the CPM for non-operational periods, until operation resumes, shall include:

1. Progress relative to the schedule;
2. Developments that delayed or advanced progress or that may delay or advance future progress;
3. Any public, agency, or media comments or complaints; and
4. Projected date for the resumption of operation.

During non-operation, all applicable conditions of certification and reporting requirements remain in effect. If, after one (1) year from the date of the project owner's last report of productive Repair/Restoration Plan work, the facility does not resume operation or does not provide a plan to resume operation, the Executive Director may assign suspended status to the facility and recommend commencement of permanent closure activities. Within 90 days of the Executive Director's determination, the project owner shall do one of the following:

1. If the facility has a closure plan, the project owner shall update it and submit it for Energy Commission review and approval.
2. If the facility does not have a closure plan, the project owner shall develop one consistent with the requirements in this Compliance Plan and submit it for Energy Commission review and approval.

ATTACHMENT C
PROJECT OWNER'S EXHIBIT LIST

In the Matter of:

**The Petition to Amend the
HUNTINGTON BEACH ENERGY PROJECT**

Docket No. 12-AFC-02C

**PROJECT OWNER'S
EXHIBIT LIST¹**

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5001	206087	Petition to Amend With Appendices Docketed 9/9/2015	All Topics
5002	206442	Project Owner's Proposed Schedule and Request for Scheduling Order Docketed 10/27/2015	General
5003	206806	Project Owner's Response to Staff's Issues Identification Report, Proposed Schedule, and Request for Committee Scheduling Order Docketed 12/1/2015	General
5004	206807	Objections to Certain Data Responses Contained in CEC Staff's Data Requests Set One (#A1-A74) Docketed 12/1/2015	General Air Quality Visual Resources Cultural Resources
5005	206858	Data Responses, Set 1 (Responses to Data Requests 1-74) Docketed 12/7/2015	Air Quality Traffic & Transportation Visual Resources Project Description Cultural Resources Socioeconomics Transmission System Engineering
5006	206859	AES Southland Development LLC's Repeated Application for Confidential Designation and for Response to Data Request Docketed 12/7/2015	General Cultural Resources

¹ Project Owner reserves the right to add exhibits prior to the close of the evidentiary record beyond those presented herein.

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5007	207211	Confidential Response to Staff's Data Requests, Set One Docketed 12/7/2015	General Cultural Resources
5008	206916	Project Owner's Handout for Huntington Beach Energy Project Site Visit 12-08-2015 Docketed 12/10/2015	General
5009	206917	Presentation - Environmental Scoping Meeting and Informational Hearing by AES Southland Development, LLC Docketed 12/10/2015	General
5010	206935	AES Southland Development, LLC's Application for Designation of Confidential Cultural Resources Records Docketed 12/11/2015	General Cultural Resources
5011	207209	AES Southland Development, LLC's Confidential Cultural Resources Records Docketed 12/11/2015	General Cultural Resources
5012	207011	Project Owner's Follow-Up to Data Request Workshop 12.14.15 Docketed 12/14/201	General Air Quality Visual Resources Socioeconomics
5013	207017	Response Letter to the 10/26/15 Request for Water Supply Assessment Docketed 12/15/2015	Water Resources
5014	210109	Project Owner's Status Report #1; Response to Committee Scheduling Order Docketed 2/1/2016	General
5015	210262	Project Owner's Response to City of Huntington Beach Comments on PTA Docketed 2/10/2016	General Compliance Conditions Traffic & Transportation Visual Resources
5016	210567	Project Owner's Status Report #2 Docketed 3/1/2016	General
5017	210763	Conceptual Design Plan - Status Update Docketed 3/16/2016	Visual Resources

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5018	210923	Project Owner's Status Report #3 Docketed 4/1/2016	General
5019	210984	AES Huntington Beach Energy, LLC's Petition to Change Ownership Docketed 4/8/2016	General
5020	211139	CAISO Section 25 Affidavit Docketed 4/19/2016	Transmission System Engineering
5021	211292	Status Report #4 Docketed 4/29/2016	General
5022	211411	Letter Regarding Response to Conservancy Docketed 5/9/2016	General Biological Resources Noise & Vibration Traffic & Transportation Land Use Water Resources
5023	211690	Project Owner's Status Report #5 Docketed 6/1/2016	General
5024	211756	Applicant's Supplement to Status Report No. 5 Docketed 6/8/2016	General
5025	211856	Order Approving Transfer of Ownership Docketed 6/17/2016	General
5026	212044	Project Owner's Status Report #6 Docketed 6/30/2016	General
5027	212311	Project Owner's Response to the Committee's Amended Scheduling Order Docketed 7/15/2016	General

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5028	212379	Project Owner's Comments on the Preliminary Staff Assessment Docketed 7/21/2016	General Project Description Air Quality Biological Resources Cultural Resources Land Use Public Health Soil & Water Resources Traffic & Transportation Transmission Line Safety & Nuisance Visual Resources Waste Management Geology & Paleontology Transmission System Engineering Alternatives Compliance Conditions
5029	212380	City of Huntington Beach RESOLUTION NO 2016-27 Docketed 7/21/2016	Land Use Visual Resources
5030	212525	Status Report #7; Request for Status Conference Docketed 8/1/2016	General
5031	212678	Huntington Beach California ISO Repowering Study Report Docketed 8/8/2016	Transmission System Engineering
5032	212752	Response to City of Huntington Beach Comments on the PSA Docketed 8/11/2016	General Traffic & Transportation Compliance Conditions Worker Health & Safety
5033	212753	AES Huntington Beach Energy LLC Response to CCC Draft Report Docketed 8/11/2016	General
5034	212948	Project Owner's Follow-Up to Status Conference - Additional PSA Comments (Alternatives - Clutches) Docketed 8/25/2016	Alternatives

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5035	213457	AES Status Report #8 Docketed 9/1/2016	General
5036	213478	Project Owner's Additional Response to Coastal Commission Comments Docketed 9/2/2016	Traffic & Transportation Biological Resources Land Use Noise
5037	213492	Response to August 29, 2016 Amended Committee Scheduling Order [Clutches] Docketed 9/6/2016	General Alternatives
5038	213812	Project Owner's Motion for Order to Publish Final Staff Assessment Docketed 9/27/2016	General
5039	213865	Project Owner's Status Report #9 Docketed 9/30/2016	General
5040	213999	Project Owner's Request for Evidentiary Hearing Date and Related Deadlines Docketed 10/13/2016	General
5041	214181	Declaration of Mark Bastasch in Support of Project Owner's Opening Testimony Docketed 10/26/2016	Noise & Vibration
5042	214183	Declaration of Melissa Fowler in Support of Project Owner's Opening Testimony Docketed 10/26/2016	Biological Resources
5043	214186	Declaration of Thomas Priestley in Support of Project Owner's Opening Testimony Docketed 10/26/2016	Visual Resources
5044	214210	Declaration of Lisa Valdez in Support of Project Owner's Opening Testimony Docketed (originally docketed 10/26/2016; re-docketed by the Docket Unit on 10/26/2016 due to technical issues) <i>TN# 214210 supersedes TN# 214179.</i>	Traffic & Transportation
5045	214185	Declaration of Thomas A. Lae in Support of Project Owner's Opening Testimony Docketed 10/26/2016	Geologic Hazards & Resources

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5046	214182	<u>Declaration of Matt Franck in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Water Resources
5047	214180	<u>Declaration of Jennifer Krenz-Ruark in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Soils
5048	214177	<u>Declaration of Fatuma Yusuf, Ph.D. in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Socioeconomics
5049	214184	<u>Declaration of Natalie Lawson in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Cultural Resources
5050	214178	<u>Declaration of James Verhoff in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Paleontological Resources
5051	214187	<u>Declaration of Robert Sims in Support of Project Owner's Opening Testimony</u> Docketed 10/26/2016	Transmission Line Safety & Nuisance Transmission System Engineering
5052	214192	<u>Declaration of Jerry Salamy</u> Docketed 10/26/2016	Project Description Executive Summary Geology Waste Management
5053	214193	<u>Declaration of Stephen O'Kane</u> Docketed 10/26/2016	All Topics
5054	214194	<u>Declaration of Seth Richardson</u> Docketed 10/26/2016	Land Use
5055	214211	<u>Project Owner's Opening Testimony</u> Docketed 10/27/2016	All Topics
5056	214361	<u>Project Owner's Rebuttal Testimony and Revised Preliminary Exhibit List</u> Docketed 11/03/2016	All Topics

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5057	214446	Project Owner's Prehearing Conference Statement and Exhibit List Docketed 11/09/2016	All Topics
5058	214455	Motion to Submit Supplemental Testimony and Supplemental Testimony of Stephen O'Kane Docketed 11/10/2016	Land Use
5059	206092	Petition to Amend Air Quality and Health Dispersion Modeling Files Docketed 9/9/2015	Air Quality Public Health
5060	206137	Petition to Amend Appendix 5.1A - Demolition and Construction Emission Estimates Docketed 9/17/2015	Air Quality
5061	206352	Letter from South Coast Air Quality Management District re: Amended Huntington Beach Energy Project Docketed 10/14/2015	Air Quality
5062	206358	AES Huntington Beach, LLC's Response to South Coast Air Management District's Request for Additional Information Docketed 10/14/2015	Air Quality Public Health
5063	206757	SCAQMD Completeness Response Docketed 11/24/2015	Air Quality Public Health
5064	206936	AES Huntington Beach, LLC's Response to South Coast Air Quality Management District's Completeness Determination Letter Docketed 12/11/2015	Air Quality Public Health
5065	206938	SCAQMD Emissions Response Docketed 12/11/2015	Air Quality
5066	207021	DR Set 1 Figures A9-1 through A9-3 Docketed 12/15/2015	Air Quality
5067	207239	SCAQMD HBEP Air Permit Application Completeness Determination Docketed 1/8/2016 (See duplicate at TN# 207088)	Air Quality

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5068	208218	SCAQMD HBEP Air Permit Application Transmittal Letters to EPA and the FLMs Docketed 1/21/2016	Air Quality
5069	210250	Data Responses to Workshop Data Request Docketed 2/9/2016	Air Quality
5070	210271	HBEP SCAQMD Cumulative Air Quality Inventory Correspondence Docketed 2/11/2016	Air Quality
5071	210300	Huntington Beach Energy Project Data Requests A75-A77 Docketed 2/12/2016	Air Quality Public Health
5072	210360	Huntington Beach Energy Project Petition to Amend Data Requests A75-A77 HARP Modeling Files Docketed 2/16/2016	Air Quality Public Health
5073	210361	Huntington Beach Energy Project Data Request A14, A16-A18 Air Quality Modeling files transmittal letter Docketed 2/16/2016	Air Quality
5074	210620 -1	Resubmission of Data Responses Set 1, Updated Response to Data Requests 4-6, Part 1 Docketed 3/7/2016	Air Quality
5075	210620 -2	Resubmission of Data Responses Set 1, Updated Response to Data Requests 4-6, Part 2 Docketed 3/7/2016	Air Quality
5076	210620 -3	Resubmission of Data Responses Set 1, Updated Response to Data Requests 4-6, Part 3 Docketed 3/7/2016	Air Quality
5077	210660	HBEP Cumulative Air Quality Analysis Correspondence Docketed 3/9/2016	Air Quality
5078	210807	Huntington Beach Energy Project's Revised Air Permit Application Documentation Docketed 3/22/2016	Air Quality Public Health

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5079	210969	<u>Petition to Amend Revised Air Quality and Public Health Assessment Sections</u> Docketed 4/6/2016	Air Quality Public Health
5080	211171	<u>Email Regarding Alamitos and Huntington Beach</u> Docketed 4/21/2016	Air Quality
5081	211425	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 1</u> Docketed 5/10/2016	Air Quality
5082	211426	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 2</u> Docketed 5/10/2016	Air Quality
5083	211427	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 3</u> Docketed 5/10/2016	Air Quality
5084	211428	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 4</u> Docketed 5/10/2016	Air Quality
5085	211429	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 5</u> Docketed 5/10/2016	Air Quality
5086	211432	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 6</u> Docketed 5/10/2016	Air Quality
5087	211433	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 7</u> Docketed 5/10/2016	Air Quality
5088	211434	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 8</u> Docketed 5/10/2016	Air Quality
5089	211437	<u>South Coast Air Quality Management District Correspondence 05-06-16 Part 9</u> Docketed 5/10/2016	Air Quality

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5090	211610	HARP Files for AQ Modeling from CH2M Hill [Report of Conversation between CEC Staff and Project Owner's Consultant regarding HARP Files for AQ Modeling] Docketed 5/23/2016	Public Health
5091	211756	Applicant's Supplement to Status Report No. 5 Docketed 6/8/2016	Air Quality
5092	211748	South Coast Air Quality Management District - Facility Permit to Operate Docketed 6/8/2016	Air Quality Public Health
5093	211747	South Coast Air Quality Management District - Preliminary Determination of Compliance Docketed 6/8/2016	Air Quality Public Health
5094	211746	South Coast Air Quality Management District - Notice of Intent to Issue Permits Docketed 6/8/2016	Air Quality Public Health
5095	211745	South Coast Air Quality Management District - Preliminary Determination of Compliance [SCQAMD Letter to Project Owner regarding Public Notice of PDOC Pursuant to SCAQMD Rule 212] Docketed 6/8/2016	Air Quality Public Health
5096	211930	AES HBEP PDOC Public Notice Verification Docketed 6/21/2016	Air Quality Public Health
5097	212278	AES Comments on the SCAQMD HBEP Preliminary Determination of Compliance Docketed 7/13/2016	Air Quality Public Health
5098	212880	Correspondence with SCAQMD Docketed 8/19/2016	Air Quality
5099	212942	HBEP Data Responses Set 1-R2, Data Responses to A4-A6 (Air Quality) Docketed 8/25/2016	Air Quality
5100	213472	Data Responses, Set 1-R3 Docketed 9/1/2016	Air Quality

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5101	214464	[SCAQMD's] Huntington Beach Energy Project - Re-notice of Public Notice of Intent to Issue Permits Docketed 11/10/2016	Air Quality Public Health
5102	214532	Huntington Beach Energy Project (HBEP) Draft Facility Permit for Final Determination of Compliance (FDOC) Package [Draft Facility Permit for FDOC] Docketed 11/18/2016	Air Quality Public Health
5103	214533	Huntington Beach Energy Project (HBEP) Draft Facility Permit for Final Determination of Compliance (FDOC) Package [Final Determination of Compliance] Docketed 11/18/2016	Air Quality Public Health
5104	214550	Project Owner's Proposed Schedule for the Remainder of the PTA Proceeding Docketed 11/22/2016	General
5105	214555	Project Owner's Revised Proposed Schedule, dated November 23, 2016 Docketed 11/23/2016	General
5106	214577	HBGS Units 3 and 4 Demolition Schedule Docketed 11/29/2016	Air Quality
5107	214604	Project Owner's Motion to Advance the Evidentiary Schedule Docketed 12/1/2016	General
5108	214709	AES's Comments on the SCAQMD's Final Determination of Compliance Docketed 12/08/2016	Air Quality Public Health
5109	214374	Determination of Compliance Revisions Docketed 11/4/2016	Air Quality Public Health
5110	214742	Supplemental Declaration of Jerry Salamy Docketed 12/12/2016	General Air Quality Public Health
5111	214743	Supplemental Declaration of Stephen O'Kane Docketed 12/12/2016	General Air Quality Public Health

EXHIBIT No.	TN #	DOCUMENT TITLE (AS DOCKETED)	SUBJECT AREA
5112	214741	Declaration of Elyse Engel Docketed 12/12/2016	Air Quality Public Health
5113	214756	Project Owner's Opening Testimony (Part 2) Docketed 12/12/2016	Air Quality Public Health Traffic & Transportation Noise Project Description Other Issues
5114	214116	Final Decision in Original Proceeding Docketed 10/20/2016	All Topics
5115	214520	AES HBEP Re-issued PDOC Public Notice Distribution Verification Docketed 11/18/2016	Air Quality Public Health
5116	214789	December 14, 2016 Declaration of Jerry Salamy Docketed 12/14/2016	Air Quality Public Health Noise Traffic & Transportation
5117	214788	Supplemental Declaration of Mark Bastasch Docketed 12/14/2016	Noise
5118	214790	December 14, 2016 Declaration of Stephen O'Kane Docketed 12/14/2016	General Noise Traffic & Transportation
5119	214796	Project Owner's Rebuttal Testimony (Part 2) Docketed 12/14/2016	Noise
5120	214836	Additional Final Determination of Compliance Comments Docketed 12/16/2016	Air Quality Public Health
5121	TBD	Project Owner's Comprehensive Prehearing Conference Statement Docketed 12/16/2016	All Topics