

DOCKETED

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Filer:	Kimberly Hellwig
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500 Capitol Mall, Suite 1600
Sacramento, CA 95814
T. 916.447.0700
F. 916.447.4781
www.stoel.com

MELISSA A. FOSTER
D. 916.319.4673
melissa.foster@stoel.com

April 5, 2017

VIA ELECTRONIC FILING

The Honorable Andrew McAllister, Presiding Member
The Honorable Karen Douglas, Associate Member
Hearing Officer Susan Cochran
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Project (12-AFC-02C)
Project Owner's Request for Necessary Revision to Condition of Certification
SOIL&WATER-4**

Dear Commissioners and Hearing Officer Cochran:

Project Owner AES Huntington Beach Energy, LLC ("Project Owner") has been diligently working on pre-construction compliance requirements related to the Amended Huntington Beach Energy Project ("Amended HBEP"). Given the delay in the approval schedule of the project, Project Owner herein seeks a necessary change to the timing component in Condition of Certification SOIL&WATER-4 in the Committee's forthcoming Errata to the Presiding Member's Proposed Decision.

Specifically, SOIL&WATER-4 requires that the Project Owner obtain a National Pollutant Discharge Elimination System ("NPDES") permit for industrial waste and stormwater discharge from the Santa Ana Regional Water Quality Control Board ("Regional Board") related to facility operations. Project Owner does not seek to change this requirement; Project Owner only seeks to remove the pre-construction timing requirement for obtaining such permit, which is impossible, unnecessary, and overly burdensome given that the permit relates to operations of the facility.¹ Project Owner has discussed the NPDES permit with Regional Board Staff and has another meeting to discuss the permit with Regional Board Staff on April 11, 2017. At this time, Project Owner's communications with Regional Board Staff indicate that timing for receipt of permit coverage would be well after the required commencement of project construction.

¹ Project Owner's representatives made a similar request in the Alamos Energy Center AFC proceeding, requesting that the timing trigger in SOIL&WATER-4 be changed to "prior to start of commercial operations" as requested herein. (See TN# 214099.) CEC Staff and the Alamos Siting Committee agreed to this change. (See AEC PMPD at Appendix A p. 23 (TN #215975).)

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Thus, for the reasons set forth herein, Project Owner requests that the following revisions be made to Condition of Certification SOIL&WATER-4:

SOIL&WATER-4: Prior to ~~mobilization for construction,~~ **the start of commercial operations**, the project owner shall obtain a National Pollutant Discharge Elimination System permit for industrial waste and stormwater discharge to the Pacific Ocean. The project owner shall discharge to the same outfall currently utilized by the Huntington Beach Generating Station under the requirements of Order No. R8-2010- 0062, NPDES No. CA0001163. The project owner shall provide a copy of all permit documentation sent to the Santa Ana or State Water Board to the CPM and notify the CPM in writing of any reported non-compliance.

Verification: Prior to ~~mobilization for construction,~~ **the start of commercial operations**, the project owner shall submit to the CPM documentation that all necessary NPDES permits were obtained from the Santa Ana or State Water Board. Thirty (30) days prior to HBEP operation, the project owner shall submit to the CPM a copy of the Industrial SWPPP. 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.

Project Owner appreciates the Committee's and Hearing Officer's prompt attention to this imperative change, which is absolutely necessary to ensure that the Project can commence construction as soon as possible after a Commission decision on the Petition to Amend.

Respectfully submitted,



Melissa A. Foster