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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

May 11, 2017

VIA ELECTRONIC FILING

Hearing Adviser Susan Cochran
1516 Ninth Street
Sacramento, CA 95814

**Re: Huntington Beach Energy Project (12-AFC-02C)
Request to Correct Errors Contained in the May 5, 2017 Final Decision**

Dear Hearing Adviser Cochran:

On behalf of Project Owner AES Huntington Beach Energy, LLC, this correspondence addresses errors set forth in the Commission's May 5, 2017 Final Decision ("2017 Final Decision") for the Amended Huntington Beach Energy Project ("Amended HBEP") (TN# 217462).¹ Project Owner addresses such errors in detail below and requests that action be taken to correct such errors. Project Owner looks forward to publication of a complete and accurate Final Decision that supersedes the version docketed on May 5, 2017.

TRANSMISSION LINE SAFETY AND NUISANCE

For reasons unknown to the Project Owner, Conditions of Certification TLSN-1 and TLSN-2 in the 2017 Final Decision do not reflect what was published in the Presiding Member's Proposed Decision filed February 24, 2017 (TN# 216247) ("PMPD") adopted by the Commission on April 12, 2017. Attachment A hereto contains the correct version of each condition, the language of which can also be found in Appendix A of the PMPD at page 24.

¹ As noted in the Commission Order No. 17-0412-2 (adopted April 12, 2017 (TN# 216990), a copy of which is included in the 2017 Final Decision), the Commission's Final Decision on the Amended HBEP Project consists of the Presiding Member's Proposed Decision ("PMPD") filed February 24, 2017 (TN# 216247), as modified by the Errata filed on April 11, 2017 (TN# 216931) and at the April 12, 2017 hearing. ("So I believe that it should be a motion to adopt the Proposed Adoption Order TN 216932, changing the effective date from 4-17 to 4-12, adopting the Commission's final decision consisting of the PMPD, as amended to change the verification of Condition of Verification GEO-3 to "30 days prior to construction," instead of, "60 days prior to ground disturbance," and the Errata." "[Commissioner McAllister]: "Okay. Rather than repeat that I will say, "So moved for Item 2."" (April 12, 2017 Business Meeting Transcript at p. 45 lines 14-23; *see also id.* at p. 24, lines 8-13 regarding Condition of Certification GEO-3).)

AIR QUALITY

Two Conditions of Certification related to Air Quality, AQ-SC1 and AQ-2, contain errors in the 2017 Final Decision. With regard to AQ-SC1, specific language was not included at the end of the condition's verification in the 2017 Final Decision, but was included in the PMPD version of the same condition. (See Appendix A to PMPD at p. 25.) Moreover, the Errata to the PMPD confirmed this language was to be included in the Final Decision's Conditions of Certification. Project Owner provides the correct version of AQ-SC1 as adopted by the Commission on April 12, 2017 in Attachment A hereto.

In addition, Condition of Certification AQ-2, as presented in the 2017 Final Decision, contains errors related to specific dates set forth within the body of the condition. In addition, revisions made to the verification portion of this condition, as set forth in the Errata, were not incorporated into the Final Decision version of AQ-2. (See Appendix A of the PMPD at p. 33; Errata at p. 11; *see also* Condition F52.1 beginning at page 17 set forth in the SCAQMD's final Title V and PSD permits issued for the Amended HBEP.) In Attachment A hereto, Project Owner provides a clean, correct version of this condition as adopted by the Commission on April 12, 2017.

WASTE MANAGEMENT

The 2017 Final Decision version of WASTE-5 requires approval by the City of Huntington Beach of the Project Owner's Construction and Demolition Waste Reduction and Recycling Program. As discussed throughout the Petition to Amend proceeding and as accurately set forth at pages 80 to 81 of Appendix A of the PMPD adopted by the Commission on April 12, 2017, the City of Huntington Beach has the opportunity to "review and comment" on the Construction and Demolition Waste Reduction and Recycling Program, and the Compliance Project Manager shall "review and approve" the Program. Thus, WASTE-5 must be revised in the 2017 Final Decision accordingly. The correct version of this condition is set forth in Attachment A hereto and is the version set forth in the PMPD as adopted by the Commission on April 12, 2017.

BIOLOGICAL RESOURCES

Project Owner notes that substantial deletions were made to the verification of BIO-1, removing language that was included in the PMPD adopted by the Commission on April 12, 2017. It is unknown to Project Owner as to why such deletions were made. To that end, Project Owner requests that the Commission put back into place the version of Condition of Certification BIO-1 set forth in the PMPD at pages 84 to 85, adopted by the Commission on April 12, 2017. The entirety of the clean, correct version of BIO-1 is set forth in Attachment A hereto.

SOIL & WATER

Specific language was correctly identified in the Errata for deletion from the body of Condition of Certification SOIL&WATER-3 and moved to verification. However, it appears that during the process of editing the 2017 Final Decision, the language was deleted from both the body of the condition as well as the verification; the language needs to be inserted back into the verification as approved by the Commission on April 12, 2017. (*See* Errata to PMPD at p. 11.) Project Owner provides in Attachment A hereto a clean version of SOIL&WATER-3, which includes the correct placement of such language in the verification.

CULTURAL RESOURCES

Project Owner notes that substantial deletions were made to the verification of CUL-1, removing language that was included in the PMPD adopted by the Commission on April 12, 2017. It is unknown to Project Owner as to why such deletions were made. To that end, Project Owner requests that the Commission put back into place the version of Condition of Certification CUL-1 set forth in the PMPD at pages 104 to 107. The entirety of the clean, correct version of CUL-1 is set forth in Attachment A hereto.

In addition, language included in the PMPD version of CUL-4 does not appear in the 2017 Final Decision. Although seemingly a minor edit, the version of CUL-4 in the 2017 Final Decision does not reflect what the Commission adopted on April 12, 2017. To that end, Project Owner requests that the version of CUL-4 set forth in the PMPD at page 111 is the version published in the 2017 Final Decision. The entirety of the clean, correct version of CUL-4 is set forth in Attachment A hereto.

PALEONTOLOGICAL RESOURCES

Project Owner notes that substantial deletions were made to the verification of PAL-1, removing language that was included in the PMPD adopted by the Commission on April 12, 2017. It is unknown to Project Owner as to why such deletions were made. To that end, Project Owner requests that the Commission put back into place the version of Condition of Certification PAL-1 set forth in the PMPD at pages 123 to 125. The entirety of the clean, correct version of PAL-1 is set forth in Attachment A hereto.

In addition, the word “verification” was deleted in condition PAL-2. Project Owner points the Committee and Hearing Adviser Cochran to page 126 of Appendix A of the PMPD, adopted by the Commission on April 12, 2017, for the correct version of this condition. For convenience, the Project Owner also provides the correct version of PAL-2 in Attachment A hereto.

LAND USE

Condition of Certification LAND-1, as set forth in the 2017 Final Decision, is the same condition set forth in the 2014 Licensed HBEP Final Decision. Although the language set forth in the Land Use section of the 2017 Final Decision accurately discusses the agreed-upon timing for compliance with the requirements of LAND-1, the text of LAND-1 included in Appendix A to the 2017 Final Decision is an absolute incorrect version of LAND-1. The PMPD at page 132, adopted by the Commission on April 12, 2017, accurately sets forth condition LAND-1. Attachment A hereto contains the correct version of LAND-1, as it was published in the PMPD adopted by the Commission on April 12, 2017.

COMPLIANCE

In the 2017 Final Decision, deletions to language within Condition of Certification COM-14 made previously were not included. In addition, a spelling error was introduced to COM-15. Therefore, Project Owner requests that the versions of COM-14 and COM-15, as set forth at pages 167 to 171 in Appendix A to the PMPD adopted by the Commission on April 12, 2017, are published as part of a revised set of Conditions of Certification for the 2017 Final Decision. Attachment A hereto contains full, correct versions of COM-14 and COM-15 as set forth in the PMPD adopted by the Commission on April 12, 2017.

FINAL DECISION TEXT

In addition to the errors contained in the Conditions of Certification noted above, certain items identified in the Errata adopted by the Commission on April 12, 2017 were not incorporated into the May 5, 2017 Final Decision. Project Owner requests that the following information be included into a complete and accurate Final Decision that supersedes the version docketed on May 5, 2017.²

SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE

Page 6.3-4, under the heading “Environmental Analysis”, numbered list:

1. No new significant impacts to ~~geological and paleontological resources~~ **related to socioeconomics that were** not previously analyzed;
2. No substantial increase in the severity of previously identified environmental impacts;

² See Errata at p. 8.

3. No mitigation measures previously found to be infeasible are now feasible, nor would these infeasible mitigation measures substantially reduce a significant effect of the Amended Project related to ~~geological and paleontological resources~~ socioeconomics; and

4. No mitigation measures or alternatives that are considerably different from those analyzed in the 2014 Decision would substantially reduce one or more significant effects of the Amended Project on the environment.¹⁷

FN17 Pub. Resources Code, § 21166; CEQA Guidelines, § 15162, subd. (a); Ex. 6000, pp. 4.8-3 - 4.8-4.

COMPLIANCE AND CLOSURE

1. Page 7-5, footnote 18:

TN 215259. Mr. Simpson/Helping Hand Tools ~~was~~ ~~was~~ ~~has~~ admitted as an Intervenor only on the topics of air quality, greenhouse gases, and public health (TN 214950). As such, we treat the portions of his brief addressing topics ~~other than those~~ on which he was not admitted as an Intervenor as public comment.

CONCLUSION

The numerous errors made between publication of the PMPD and the publication of the 2017 Final Decision must be rectified to reflect what the Commission actually approved on April 12, 2017. Project Owner looks forward to publication of a complete and accurate Final Decision that supersedes the version docketed on May 5, 2017.

Very truly yours,



Melissa A. Foster

cc: Joe Douglas, Compliance Project Manager, California Energy Commission
Kourtney Vaccaro, Chief Counsel, California Energy Commission
Paul Kramer, Assistant Chief Counsel, California Energy Commission

ATTACHMENT A
CORRECT VERSIONS OF CONDITIONS OF CERTIFICATION

ATTACHMENT A

The following Conditions of Certification are the correct versions that should be reflected in the Amended HBEP Final Decision.

TRANSMISSION LINE SAFETY AND NUISANCE

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.

AIR QUALITY

AQ-SC1 Air Quality Construction/Demolition Mitigation Manager (AQCMM)

The project owner shall designate and have during construction/demolition activities an AQCMM who shall be responsible for directing and documenting compliance with Conditions AQ-SC3, AQ-SC4 and AQ-SC5 for the entire duration of project site construction/demolition. The project owner may elect to assign one or more AQCMMs as well.. The on-site AQCMM may delegate responsibilities to one or more AQCMM delegates. The AQCMM and AQCMM delegates shall have full access to all areas of construction/demolition on the project site, and shall have the authority to stop any or all construction/demolition activities as warranted by applicable construction/demolition mitigation conditions. The AQCMM and AQCMM delegates may have other responsibilities in addition to those described in this condition.

Verification: At least 60 days prior to the start of ground disturbance, the project owner shall submit to the CPM for approval the name, resume, qualifications, and contact information for the first on-site AQCM and all AQCM delegates. The AQCM and all delegates must be approved by the CPM before the start of ground disturbance. An AQCM may be replaced after ground disturbance if the replacement AQCM has been approved by the CPM.

AQ-2 This facility is subject to the applicable requirements of the following rules or regulation(s):

The facility shall submit a detailed retirement plan for the permanent shutdown of Huntington Beach (HB) Boilers 1 and 2 and Redondo Beach (RB) Boiler 7 describing in detail the steps and schedule that will be taken to render the boilers permanently inoperable. The retirement plan shall be submitted to SCAQMD within 60 days after the Permits to Construct are issued for gas turbines CCTG 1, CCTG 2, SCTG 1, and SCTG 2.

AES shall not commence any construction of HB Boilers 1 and 2 and RB Boiler 7 repowering project equipment including gas turbines CCTG 1, CCTG 2, SCTG 1, SCTG 2, Auxiliary Boiler, ammonia storage tanks, or the oil water separators, unless the retirement plan is approved in writing by SCAQMD. If SCAQMD notifies AES that the plan is not approvable, AES shall submit a revised plan addressing SCAQMD's concerns within 30 days.

Within 30 calendar days of actual shutdown, or by no later than January 15, 2020, AES shall provide SCAQMD with a notarized statement that HB Boiler 1 and RB Boiler 7 are permanently shutdown and that any re start or operation of the units shall require new Permits to Construct and be subject to all requirements of non-attainment new source review and the prevention of significant deterioration program.

Within 30 calendar days of actual shutdown, or by no later than December 31, 2020, AES shall provide SCAQMD with a notarized statement that HB Boiler 2 is permanently shutdown and that any re start or operation of the unit shall require a new Permit to Construct and be subject to all requirements of non-attainment new source review and the prevention of significant deterioration program.

AES shall notify SCAQMD 30 days prior to the implementation of the approved retirement plan for permanent shutdown of HB Boiler 1 and RB Boiler 7, or advise SCAQMD as soon practicable should AES undertake permanent shutdown prior to January 15, 2020.

AES shall notify SCAQMD 30 days prior to the implementation of the approved retirement plan for permanent shutdown of HB Boiler 2, or advise SCAQMD as soon practicable should AES undertake permanent shutdown prior to December 31, 2020.

AES shall cease operation of HB Boiler 1 within 90 calendar days of the first fire of either CCTG 1 or CCTG 2, whichever is earlier. AES shall cease operation of HB Boiler 2 within 90 calendar days of the first fire of either SCTG 1 or SCTG 2, whichever is earlier. AES shall cease operation of RB Boiler 7 prior to the first fire of either CCTG 1 or CCTG 2, whichever is earlier.

At least 6 months prior to January 15, 2020, AES may submit a permit modification application requesting the permission to shutdown a combination of boilers other than HB Boiler 1, HB Boiler 2, and RB Boiler 7 to offset the increases for this project. The other boilers must be located at AES facilities Huntington Beach GS, Redondo Beach GS, or Alamitos GS, and approval of the application must be received prior to any changes being made to the shutdowns outlined in this condition.

Verification: The project owner shall submit the retirement plan and any modifications to the plan to the CPM within five working days of its submittal either by: 1) sending a copy of the project owner's submittal to the District, or 2) receipt of proposed modifications from District. The project owner shall make the site available for inspection of records by representatives of the District, ARB, and the Energy Commission.

WASTE MANAGEMENT

WASTE-5 The project owner shall prepare a Construction and Demolition (C&D) Debris Waste Reduction and Recycling Plan for all wastes generated during demolition and 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:

- a description of all construction waste streams, including projections of frequency, amounts generated, and hazard classifications;
- 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.
- a method for collecting weigh tickets or other methods for verifying the volume of transported and or location of waste disposal; and,
- 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 Construction to the CPM for review and approval and to the city of Huntington Beach Department of Planning and Building for review and comment no less than 30 days prior to the initiation of demolition and construction activities at the site.

The project owner shall also document in each monthly compliance report (MCR) the actual volume of wastes generated and the waste management methods used during the year; provide a comparison of the actual waste generation and management methods used to those proposed in the original Construction Waste Management Plan; and update the Construction Waste Management Plan, as necessary, to address current waste generation and management practices.

BIOLOGICAL RESOURCES

BIO-1 The project owner shall assign at least one Designated Biologist to the project. The project owner shall submit the resume of the proposed Designated Biologist, with at least three references and contact information, to the Energy Commission Compliance Project Manager (CPM) for approval and to the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) for review and comment.

The Designated Biologist must meet the following minimum qualifications:

1. Bachelor's degree in biological sciences, zoology, botany, ecology, or a closely related field;
2. Three years of experience in field biology or current certification of a nationally recognized biological society, such as The Ecological Society of America or The Wildlife Society; and
3. At least one year of field experience with biological resources found in or near the project area.

Current or prior possession of USFWS 10(a)(1)(A) permit and/or CDFW scientific collecting permit is preferred, but not required.

In lieu of the above requirements, the resume shall demonstrate to the satisfaction of the CPM that the proposed Designated Biologist or alternate has the appropriate training and background to effectively implement the conditions of certification.

The designated biologist may be replaced by submitting the required resume, references and contact information to the CPM for review and approval and to CDFW and USFWS for review and comment.

Verification: The project owner shall submit the specified information at least 75 days prior to the start of site mobilization or construction-related ground disturbance activities. No pre-construction site mobilization or construction-related activities shall commence until a Designated Biologist has been approved by the CPM.

The project owner may replace a Designated Biologist by submitting the required resume, references, and contact information to the CPM for review and approval and to the CDFW and USFWS for review and comment, at least ten working days prior to the termination or release of the then-current Designated Biologist. In an emergency, the project owner shall immediately notify the CPM to discuss the qualifications and approval of a short-term replacement while a permanent Designated Biologist is proposed to the CPM for consideration.

The CPM may withhold approval of a Designated Biologist based upon proof that a proposed Designated Biologist has repeatedly failed to comply with the conditions of any Energy Commission license as they pertain to biological resources. If the project owner proposes to use a Designated Biologist previously-approved by the Energy Commission within the preceding five (5) years, the CPM shall have ten (10) business days to review the resume and statement of availability of the proposed Designated Biologist. The CPM may withhold approval of a previously-approved Designated Biologist only if (1) the non-compliance with conditions of an

Energy Commission license was documented in the compliance record for the previous Energy Commission license project work or (2) if the proposed previously-approved Designated Biologist's qualifications are not commensurate with all of the minimum qualifications identified in Condition of Certification BIO-1. The CPM shall provide notice of disapproval of the proposed Designated Biologist within ten (10) business days of receipt of the resume and statement of availability of any proposed Designated Biologist. In the case of a previously-approved Designated Biologist, failure to provide notice within ten (10) business days of receipt of the resume and statement of availability of the proposed Designated Biologist shall be deemed approval of that candidate.

The CPM shall meet and confer with the project owner regarding the disapproval of a previously-approved Designated Biologist or the need to remove or replace a Designated Biologist. Removal or replacement may occur if the CPM can establish that the Designated Biologist has repeatedly failed to comply with the conditions of the Amended HBEP license that pertain to biological resources.

In the absence of comments, the CPM shall deem the Designated Biologist acceptable to USFWS and/or CDFW.

SOIL & WATER

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 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. 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 RWD 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 be submitted to the RWQCB and shall be payable to the State Water Resources Control Board.

CULTURAL RESOURCES

CUL-1 APPOINTMENT AND QUALIFICATIONS OF CULTURAL RESOURCES SPECIALIST (CRS)

A. CULTURAL RESOURCE SPECIALIST

1. Appointment and Qualifications

The project owner shall assign at least one Cultural Resources Specialist (CRS) to the project. The project owner shall submit the resume of the proposed CRS, with at least three references and contact information, to the Energy Commission Compliance Project Manager (CPM) for review and approval.

The CRS and alternate CRS(s) shall include have training and background that conform to the U.S. Secretary of the Interior's Professional Qualifications Standards, as published in Title 36, Code of Federal Regulations, part 61. In addition, the CRS and alternate CRS(s) shall have the following qualifications:

- a. A background in anthropology, archaeology, history, architectural history, or a related field;
- b. At least 10 years of archaeological or historical experience (as appropriate for the project site), with resources mitigation and fieldwork;
- c. At least one year of field experience in California; and
- d. At least three years of experience in a decision-making capacity on cultural resources projects in California and the appropriate training and experience to knowledgably make recommendations regarding the significance of cultural resources.

The project owner may replace the CRS by submitting the required resume, references and contact information of the proposed replacement to the CPM.

2. Duties of Cultural Resources Specialist

The CRS shall manage all cultural resource monitoring, mitigation, curation, and reporting activities, and any post-certification cultural resource activities (as defined above), unless management of these is otherwise provided for in accordance with the cultural resource conditions of certification (conditions). The CRS shall serve as the primary point of contact on all cultural resource matters for the Energy Commission. The CRS may elect to obtain the services of Cultural Resource Monitors (CRMs), Native American Monitors (NAMs), and other technical specialists, if needed, to assist in monitoring, mitigation, and curation activities. The project owner shall ensure that the CRS makes recommendations regarding the eligibility for listing in the California Register of Historical Resources (CRHR) of any cultural resources that are newly discovered or that may be affected in an unanticipated manner.

After all ground disturbances is completed and the CRS has fulfilled all responsibilities specified in these cultural resources conditions, the project owner may discharge the CRS, after receiving approval from the CPM. The Conditions of Certification described in this subsection of the FSA shall continue to apply during operation of the proposed power plant.

B. CULTURAL RESOURCES MONITORS

1. Appointment and Qualifications

The project owner may assign Cultural Resources Monitors (CRMs). CRMs shall have the following qualifications:

- a. B.S. or B.A. degree in anthropology, archaeology, historical archaeology, or a related field; and one year of archaeological field experience in California; or
- b. A.S. or A.A. degree in anthropology, archaeology, historical archaeology, or a related field, and four years of archaeological field experience in California; or
- c. Enrollment in upper division classes pursuing a degree in the fields of anthropology, archaeology, historical archaeology, or a related field, and two years of archaeological field experience in California.

C. NATIVE AMERICAN MONITORS

1. Appointment and Qualifications:

If required pursuant to Condition of Certification **CUL-6**, the project owner shall obtain the services of qualified Native American Monitors (NAMs). Preference in selecting NAMs shall be given to Native Americans with:

- a. Traditional ties to the area to be monitored, and
- b. The highest qualifications as described by the Native American Heritage Commission (NAHC) document entitled: *Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites* (NAHC 2005).

Verification: The project owner shall provide the CPM with the resume and qualifications of its CRS for review and approval at least 75 days prior to the start of (1) ground disturbance (as defined in the Compliance Conditions section); (2) post-certification cultural resources activities (including, but not limited to, “survey”, “in-field data recording,” “surface collection,” “testing,” “data recovery” or “geoarchaeology”); or (3) site preparation or subsurface soil work during pre-construction activities or site mobilization.¹

2, the project owner shall obtain the services of a Cultural Resources Specialist (CRS) and one or more alternate CRS.

The project owner may replace a CRS by submitting the required resume, references and contact information to the CPM at least ten working days prior to the termination or release of the then-current CRS. In an emergency, the project owner shall immediately notify the CPM to discuss the qualifications and approval of a short-term replacement while a permanent CRS is proposed to the CPM for consideration.

The CPM may withhold approval of a CRS based upon proof that a proposed CRS has repeatedly failed to comply with the conditions of any Energy Commission license as they pertain to cultural resources. If the project owner proposes to use a CRS previously approved by the Energy Commission within the preceding five (5) years, the CPM shall have ten (10) business days to review the resume and statement of availability of the proposed CRS. The CPM may withhold approval of a previously-approved CRS only (1) if the non-compliance with conditions of an Energy Commission license was documented in the compliance record for the previous Energy Commission license project work or (2) if the proposed previously-approved CRS’s qualifications are not commensurate with all criteria in Paragraph A of this Condition of Certification. The CPM shall provide notice of disapproval of the proposed CRS within ten (10) business days of receipt of the resume and statement of availability of any proposed CRS. In the case of a previously-approved CRS, failure to provide notice within ten (10) business days of receipt of the resume and statement of availability of the proposed CRS shall be deemed approval of that candidate.

The CPM shall meet and confer with the project owner regarding the disapproval of a previously-approved CRS or the need to remove or replace a CRS. Removal or replacement may occur if the CPM can establish that the CRS has repeatedly failed to comply with the conditions of the Amended HBEP license that pertain to cultural resources.

At least 20 days prior to Cultural Resources Ground Disturbances, the CRS shall provide proof of qualifications for any anticipated CRMs and additional specialists for the project to the CPM.

¹ For purposes of the Conditions of Certification for Cultural Resources, we will refer to these activities as “Cultural Resources Ground Disturbances”.

At least 5 days prior to additional CRMs or NAMs beginning on-site duties during the project, the CRS shall review the qualifications of the proposed CRMs or NAMs send approval letters to the CPM, identifying the monitors and attesting to their qualifications.

At least 10 days prior to any technical specialists beginning tasks, the resume(s) of the specialists shall be provided to the CPM for review and approval.

At least 10 days prior to the start of construction-related ground disturbance, the project owner shall confirm in writing to the CPM that the approved CRS will be available for onsite work and is prepared to implement the cultural resources conditions. No Cultural Resources Ground Disturbances shall occur prior to CPM approval of the CRS and alternates, unless such activities are specifically approved by the CPM.

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 of ground disturbance and/or 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 ground disturbance and/or 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.

PALEONTOLOGICAL RESOURCES

PAL-1 APPOINTMENT AND QUALIFICATIONS OF PALEONTOLOGICAL RESOURCE SPECIALIST (PRS)

The project owner shall provide the compliance project manager (CPM) with the resume and qualifications of its paleontological resource specialist (PRS) for review and approval. If the approved PRS is replaced prior to completion of project mitigation and submittal of the paleontological resources report (PRR), the project owner shall obtain CPM approval of the replacement PRS. The project owner shall keep resumes on file for qualified paleontological resources monitors (PRMs). If a PRM is replaced, the resume of the replacement PRM shall also be provided to the CPM for review and approval.

The PRS resume shall include the names and phone numbers of references. The resume shall also demonstrate to the satisfaction of the CPM the appropriate education and experience to accomplish the required paleontological resource tasks.

As determined by the CPM, the PRS shall meet the minimum qualifications for a Qualified Professional Paleontologist as defined in the Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources by the Society of Vertebrate Paleontology (SVP 2010). The experience of the PRS shall include the following:

1. Institutional affiliations, appropriate credentials, and college degree;
2. Ability to recognize and collect fossils in the field;
3. Local geological and biostratigraphic expertise;
4. Proficiency in identifying vertebrate and invertebrate fossils; and
5. At least three years of paleontological resource mitigation and field experience in California and at least one year of experience leading paleontological resource mitigation and field activities.

The project owner shall ensure that the PRS obtains qualified paleontological resource monitors to monitor as he or she deems necessary on the project. Paleontological resource monitors (PRMs) shall have the equivalent or combination of the following qualifications approved by the CPM:

- BS or BA degree in geology or paleontology and one year of experience monitoring in California; or
- AS or AA in geology, paleontology, or biology and four years' experience monitoring in California; or
- Enrollment in upper division classes pursuing a degree in the fields of geology or paleontology and two years of monitoring experience in California.

The project owner shall keep resumes on file for qualified paleontological resources monitors (PRMs). If a PRM is replaced, the resume of the replacement PRM shall also be provided to the CPM for review and approval.

Verification:

(1) At least 60 days prior to the start of ground disturbance, the project owner shall submit a resume and statement of availability of its designated PRS for on-site work to the CPM, whose approval must be obtained.

The CPM may withhold approval of a PRS based upon proof that a proposed PRS has repeatedly failed to comply with the conditions of any Energy Commission license as they pertain to paleontological resources. If the project owner proposes to use a PRS previously-approved by the Energy Commission within the preceding five (5) years, the CPM shall have ten (10) business days to review the resume and statement of availability of the proposed PRS. The CPM may withhold approval of a previously approved PRS only if (1) the non-compliance with conditions of an Energy Commission license was documented in the compliance record for the previous Energy Commission license project work or (2) if the proposed previously approved PRS's qualifications are not commensurate with all of the minimum qualifications identified in Condition of Certification PAL-1. The CPM shall provide notice of disapproval of the proposed PRS within ten (10) days of receipt of the resume and statement of availability of any proposed PRS. In the case of a previously-approved PRS, failure to provide notice within (10) days of receipt of the resume and statement of availability of the proposed PRS shall be deemed approval of that candidate.

The CPM shall meet and confer with the project owner regarding the disapproval of a previously-approved PRS or the need to remove or replace a PRS. Removal or replacement may occur if the CPM can establish that the PRS has repeatedly failed to comply with the conditions of the Amended HBEP license that pertain to paleontological resources.

(2) At least 20 days prior to ground disturbance, the PRS or project owner shall provide a letter with resumes naming anticipated monitors for the project. The letter shall state that the identified monitors meet the minimum qualifications for paleontological resource monitoring as required by this condition of certification. If additional monitors are obtained during the project, the PRS shall provide additional letters and resumes to the CPM. The letter shall be provided to the CPM for approval no later than one week prior to the monitor's beginning on-site duties.

(3) Prior to any planned change in the PRS, the project owner shall submit the resume of the proposed new PRS to the CPM for review and approval.

PAL-2 DOCUMENTS PROVIDED TO THE PRS

The project owner shall provide to the PRS and the CPM, for approval, maps and drawings showing the footprint of the power plant, construction lay down areas, and all related facilities. Maps shall identify all areas of the project where ground disturbance is anticipated. If the PRS requests enlargements or strip maps for linear facility routes, the project owner shall provide copies to the PRS and CPM. The site grading plan and the plan and profile drawings for the utility lines would be acceptable for this purpose. The plan drawings should show the location,

depth, and extent of all ground disturbances and be at a scale between 1 inch = 40 feet and 1 inch = 100 feet. If the footprint of the project or its linear facilities change, the project owner shall provide maps and drawings reflecting those changes to the PRS and CPM.

If construction of the project proceeds in phases, maps and drawings may be submitted prior to the start of each phase. A letter identifying the proposed schedule of each project phase shall be provided to the PRS and CPM. Before work commences on affected phases, the project owner shall notify the PRS and CPM of any construction phase scheduling changes.

At a minimum, the project owner shall ensure that the PRS or PRM consults weekly with the project superintendent or construction field manager to confirm area(s) to be worked the following week, until ground disturbance is completed.

Verification:

- (1) At least 30 days prior to the start of ground disturbance, the project owner shall provide the maps and drawings to the PRS and CPM.
- (2) If there are planned changes to the footprint of the project, revised maps and drawings shall be provided to the PRS and CPM at least 15 days prior to the start of ground disturbance.
- (3) If there are changes to the scheduling of the construction phases, the project owner shall submit a letter to the CPM within 5 days of identifying the changes.

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 Amended HBEP site, excluding linear and temporary lay down or staging areas, will be located on a single legal parcel.

Verification: Prior to commercial operation of the combined-cycle gas turbine (CCGT), 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 relate 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 of Huntington Beach. 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 withal conditions and requirements associated with the approval of the Lot Line Adjustment or other action by the city of Huntington Beach.

COMPLIANCE

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 nonoperation 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. 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 assumption 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.

COM-15: Facility Closure Planning.

To ensure that a facility's eventual permanent closure and long-term maintenance do not pose a threat to public health and safety and/or to environmental quality, the project owner shall coordinate with the Energy Commission to plan and prepare for eventual permanent closure.

A. Provisional Closure Plan

To assure satisfactory long-term site maintenance and adequate closure for "the whole of a project," the project owner shall include within the first ACR a Provisional Closure Plan for CPM review and approval. The CPM may require Provisional Closure Plan to reflect project modifications approved by the Energy Commission. The Provisional Closure Plan shall consider applicable final closure plan requirements, including interim and long-term maintenance costs and that qualified personnel will carry out permanent closure and long-term maintenance activities.

The Provisional Closure Plan shall reflect the most current regulatory standards, best management practices, and LORS, and provide for a phased closure process and include but not be limited to:

1. comprehensive scope of dismantling and demolition;
2. recycling and site clean-up;
3. mitigation and monitoring direct, indirect, and cumulative impacts;
4. site remediation and/or restoration;
5. interim and long-term operation monitoring and maintenance, including long-term equipment replacement costs; and
6. contingencies.

B. Final Closure Plan and Cost Estimate

No less than one (1) year (or other CPM-approved date) prior to initiating a permanent facility closure, the project owner shall submit for Energy Commission review and approval, a Final Closure Plan and Cost Estimate, which includes any long-term, site maintenance and monitoring.

Prior to submittal of the facility's Final Closure Plan to the Energy Commission, the project owner and the CPM will hold a meeting to discuss the specific contents of the plan. In the event

that significant issues are associated with the plan's approval, the CPM will hold one or more workshops and/or the Energy Commission may hold public hearings as part of its approval procedure.

Final Closure Plan and Cost Estimate contents include, but are not limited to:

1. a statement of specific Final Closure Plan objectives;
2. a statement of qualifications and resumes of the technical experts proposed to conduct the closure activities, with detailed descriptions of previous power plant closure experience;
3. identification of any facility-related installations or maintenance agreements not part of the Energy Commission certification, designation of who is responsible for these, and an explanation of what will be done with them after closure;
4. a comprehensive scope of work and itemized budget for permanent plant closure and site maintenance activities, with a description and explanation of methods to be used, broken down by phases, including, but not limited to:
 - a. dismantling and demolition;
 - b. recycling and site clean-up;
 - c. impact mitigation and monitoring;
 - d. site remediation and/or restoration;
 - e. exterior maintenance, including paint, landscaping and fencing;
 - f. site security and lighting; and
 - g. any contingencies.
5. A Final Cost Estimate for all closure activities, by phases, including site monitoring and maintenance costs, and long-term equipment replacement;
6. a schedule projecting all phases of closure activities for the power plant site and all appurtenances constructed as part of the Energy Commission-certified project;
7. an electronic submittal package of all relevant plans, drawings, risk assessments, and maintenance schedules and/or reports, including an above- and below-ground infrastructure inventory map and registered engineer's or DCBO's assessment of demolishing the facility; additionally, for any facility that permanently ceased operation prior to submitting a Final Closure Plan and Cost Estimate and for which only minimal or no maintenance has been done since, a comprehensive condition report focused on identifying potential hazards;
8. all information additionally required by the facility's conditions of certification applicable to plant closure;

9. an equipment disposition plan, including:
 - a. recycling and disposal methods for equipment and materials; and
 - b. identification and justification for any equipment and materials that will remain on-site after closure;
10. a site disposition plan, including but not limited to:
 - a. proposed rehabilitation, restoration, and/or remediation procedures, as required by the conditions of certification and applicable LORS, and
 - b. site maintenance activities.
11. identification and assessment of all potential direct, indirect, and cumulative impacts and proposal of mitigation measures to reduce significant adverse impacts to a less-than-significant level; potential impacts to be considered shall include, but not be limited to:
 - a. traffic;
 - b. noise and vibration;
 - c. soil erosion;
 - d. air quality degradation;
 - e. solid waste;
 - f. hazardous materials;
 - g. waste water discharges, and
 - h. contaminated soil.
12. identification of all current conditions of certification, LORS, federal, state, regional, and local planning efforts applicable to the facility, and proposed strategies for achieving and maintaining compliance during closure;
13. updated mailing list or listserv of all responsible agencies, potentially interested parties, and property owners within one (1) mile of the facility;
14. identification of alternatives to plant closure and assessment of the feasibility and environmental impacts of these; and
15. description of and schedule for security measures and safe shutdown of all noncritical equipment and removal of hazardous materials and waste (see conditions of certification for **PUBLIC HEALTH, WASTE MANAGEMENT, HAZARDOUS MATERIALS MANAGEMENT, and WORKER SAFETY**).

If the Energy Commission-approved Final Closure Plan and Cost Estimate procedures are not initiated within one (1) year of its approval date, it shall be updated and resubmitted to the Energy Commission for supplementary review and approval. If a project owner initiates but then suspends closure activities, and the suspension continues for longer than one (1) year, the Energy Commission may initiate correction actions against the project owner to complete facility closure. The project owner remains liable for all costs of contingency planning and closure.