

Date: October 7, 2010

To: Melissa Jones, Executive Director

From: **California Energy Commission** - Terry O'Brien, Deputy Director  
1516 Ninth Street  
Sacramento, CA 95814-5512  
Siting, Transmission & Environmental Protection Division

**Subject: ITEM FOR THE OCTOBER 20, 2010 BUSINESS MEETING – HUNTINGTON BEACH  
GENERATING STATION UNITS 3&4 PETITION TO EXTEND CERTIFICATION  
EXPIRATION DATE FROM SEPTEMBER 30, 2011 TO DECEMBER 31, 2020.**

### **PROJECT BACKGROUND**

The AES Huntington Beach Generating Station Retool Project rebuilt and upgraded the internal components of two 1950s vintage boilers (Units 3 and 4) that were retired from use by Southern California Edison in 1995. The project was licensed through a highly expedited process instituted by the California Energy Commission in response to various Executive Orders issued by Governor Davis in 2001. Due to the expedited nature of this process, the Energy Commission granted an emergency certification (May 2001) that did not follow the normal certification process. The Energy Commission required the applicant to fund post-licensing studies and established an expiration date of September 30, 2011 for the certification. The results of these studies were to be used to implement mitigation as necessary.

### **ISSUE**

The AES Huntington Beach Generating Station project was originally approved by the City of Huntington Beach. As a result of the energy emergency in 2001, the retooling of Units 3 and 4 were subject to the Energy Commission's approval process, while the continued operation of Units 1 and 2 remained under the authority of the City of Huntington Beach.

The Energy Commission certification of the Huntington Beach Generating Station Retool project acknowledged the potential impacts from the use of once-through cooling (OTC) of Units 3 and 4 requiring a detailed analysis of entrainment and impingement impacts as well as implementation of appropriate mitigation measures. These studies were completed in 2005 and mitigation consisted of the purchase of 66.8 acres of Huntington Beach wetlands and the maintenance of these wetlands for a period of 10 years. AES submitted a lump sum for the purchase of the required acreage that also consisted of funds for the maintenance of the restored wetlands. The 66.8 acres were meant to contribute to an overall wetland restoration area consisting of approximately 191 acres that are being restored through the Huntington Beach Wetlands Conservancy, while also mitigating for the habitat impacted from the use of the OTC for Units 3 and 4.

During the time that the entrainment and impingement study was being conducted, other power plants that used once through cooling technologies were being looked at more closely. The State Water Resources Control Board (SWRCB) has recently received approval from the Office of Administrative Law (OAL) of their Policy that identifies steps and provides schedules to phase out the use of once-through cooling power plants to implement Section 316(b) of the Clean Water Act.

This policy was approved by the OAL on September 27, 2010 and became effective on October 1, 2010.

The recent petition to extend the use of OTC for Units 3 and 4 until December 31, 2020 of the Huntington Beach Generating Station would allow the power plant to continue providing energy during peak times and is consistent with the recently approved SWRCB Policy. The SWRCB Policy has identified December 31, 2020 as the date that the Huntington Beach Generating Station must cease operation of OTC. However, the continued use of OTC for Units 3 and 4 would mean that there would also be continued impacts on aquatic resources. The analysis of this request is provided in the following section.

### **SUMMARY OF STAFF ANALYSIS**

Staff has reviewed the requested extension in which AES proposed to submit an AFC to replace all four units (eliminating OTC) by December 31, 2013. Staff has discussed the filing date of the AFC due to management concerns over the continued use of OTC and the projected schedule. AES has agreed to an initial license extension of five years, until September 30, 2016, with the possibility of an extension to December 31, 2020 if they submit an AFC by June 30, 2012 (that is determined to be data adequate by December 31, 2012). This will allow them to design, plan, finance, demolish and construct the new units while still allowing them to provide energy as needed. If an AFC is not submitted by June 30, 2012, a closure plan will be submitted for Units 3 and 4 which will cease operation by the September 30, 2016.

The biological staff analyzed the extension and has determined that the continued maintenance of the 66.8 acres of restored wetland will mitigate continued impacts of Units 3 and 4 during the extension period. The maintenance will ensure that the viability of the wetlands will offset the estimated habitat lost. The Huntington Beach Wetlands Conservancy has indicated that the restoration is complete except for some minor plantings and maintenance activities to ensure the continued viability of this restoration area. AES initially deposited \$523,712 for restoration maintenance activities which provides an annual amount of approximately \$55,000 a year to fund the ongoing work. Due to increasing costs and monitoring to ensure continued biological viability, the Huntington Beach Wetland Conservancy has requested an additional \$20,000 per year from AES for a total annual cost of \$75,000. The augmented amount will fund maintenance and monitoring through the year 2018 at which time the initial deposit will have been fully expended. If OTC is continued beyond 2018, the entire \$75,000 annual amount has been requested from AES. AES and the Huntington Beach Wetland Conservancy have agreed to these terms and a Condition of Certification has been reviewed and accepted by both parties and is outlined in the following section, Proposed Additional Conditions of Certification.

AES has indicated that they will conduct feasibility studies and design plans with the intent of having adequate room to replace Units 3 and 4 allowing them to submit an AFC with a demolition plan. If it is determined that the new Units 3 and 4 cannot be constructed without demolishing the older units, AES has indicated that they will submit a Closure Plan for these units with a demolition plan prior to the AFC submittal to replace all four units.

### **PUBLIC REVIEW**

A Notice of Receipt was docketed, posted on the Energy Commission website, and mailed to the post-certification mailing list on March 22, 2010. The staff analysis was docketed, posted on the Energy Commission website, and mailed to interested parties on September 13, 2010. To date, no comments have been received.

### **STAFF FINDINGS**

Pursuant to Title 20, section 1769(a) of the California Code of Regulations, staff finds:

- The petition meets all the filing criteria of Title 20, section 1769(a) concerning post-certification project modifications;
- The modification would not change the findings in the Energy Commission's Final Decision pursuant to Title 20, section 1755;
- The project would remain in compliance with all applicable laws, ordinances, regulations and standards (LORS), subject to the provisions of Public Resources Code section 25525;
- The extension of the license is the most effective way to allow the continued supply of energy during peak periods while providing adequate time to allow the power plant to replace all of the units with updated technology consistent with the recommendation to phase out OTC.

### **RECOMMENDATIONS**

Based on the above findings and staff's review of the request for a certification extension, staff recommends approval of the Petition to Amend to extend the license expiration date for AES Huntington Beach Units 3 and 4 until September 30, 2016 with the potential for extension until December 31, 2020 to replace all of the units at the power plant. With the incorporated Conditions of Certification, the project would continue to comply with applicable LORS and mitigate impacts to a less than significant level.

### **PROPOSED ADDITIONAL CONDITIONS OF CERTIFICATION**

Energy Commission staff proposes the addition of Biological Resources Condition of Certification **BIO-7** (below), and that the following provision be added to the original Commission Decision's **General Order No. 1-General Conditions including Compliance Monitoring and Closure Plan**. (New language is shown underlined.)

#### **Provision to file and Application for Certification (AFC) by June 30, 2012**

On or before June 30, 2012, an AFC to replace the Huntington Beach Generating Station Retool Project at its current site shall be submitted to the California Energy Commission by the project owner, and must be deemed data adequate no later than December 31, 2012. If the AFC is submitted and deemed data adequate as specified above, then the license shall be extended to December 31, 2020. If an AFC is not submitted, or, an AFC is submitted but not deemed data adequate by December 31, 2012, this license extension shall terminate on September 30, 2016.

**BIO-7** In addition to the current yearly maintenance funding, the project owner shall contribute an additional \$20,000 to fund the annual maintenance and monitoring activities from 2012 to 2018, as deemed necessary by the Compliance Project Manager (CPM), to maintain proper functioning of the 66.8 acres of wetlands restored under the original licensing of the Huntington Beach Power Plant. If once-through cooling is still in operation after December 31, 2018, the project owner shall pay \$75,000 annually for every year once-through cooling is operational, up until this license terminates (December 31, 2020). This may include maintenance or restoration activities conducted within the original 66.8 acres of restored wetlands or on other acreage within the preserve, including work in adjoining upland habitats that contribute to the overall functioning of the entire wetland preserve. The project owner must submit an Application for Certification (AFC) to the Energy

Commission by June 30, 2012, to repower the power plant and to comply with the statewide water resources control board policy on the use of coastal waters for power plant once-through cooling in order to receive a full requested license extension through 2020. If the June 2012 deadline is not met, then the project owner will submit a closure plan to cease operation for Units 3 and 4 by September 30, 2016, for review and approval by the Energy Commission.

The Conservancy shall submit annual reports to the CPM for review and approval by January 15 in accordance with the existing Memorandum of Understanding (MOU) between the project owner, Huntington Beach Wetlands Conservancy, and the Commission staff. Submitted budgets should include any appropriate bids by contractors acquired by the Conservancy as specified in the existing MOU. Upon approval by the CPM, the CPM shall submit the annual budget to the project owner and the project owner shall fund the annual budget.

**Verification:** The Conservancy shall submit an annual report to the CPM for approval by January 15 of each year that contains a proposed budget for the maintenance, monitoring or restoration activities for the next year as well as a summary of maintenance and restoration activities conducted in the previous year as indicated in the existing MOU. Once the annual budget and summary report is approved, the CPM will authorize release of funds from the trust account within five working days according to the existing MOU. Upon approval by the CPM, the annual budget shall be submitted to the project owner as necessary. The project owner shall provide additional funds in excess of current available funding, up to \$20,000 annually from 2012 to 2018, or up to \$75,000 in 2019 and 2020 as specified in the **BIO-7** Condition of Certification. Any required funds shall be paid no more than 30 days after the project owner receives the budget from the CPM. The project owner shall provide written verification that funds were deposited to the CPM.

#### **COMPLIANCE PROJECT MANAGER**

The Compliance Project Manager is Mary Dyas, (916) 651-8891.

#### **BUSINESS MEETING PARTICIPANTS**

Christina Snow, Compliance Unit  
Mary Dyas, Compliance Project Manager  
Kevin W. Bell, Compliance Staff Counsel  
Rick York, Biology Unit Supervisor  
Paul Marshall, Senior Engineering Geologist

Attachment(s): Staff Analysis  
Draft Order