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CALIFORNIA COASTAL COMMISSION

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Th5a

March 31, 2005

TO: Coastal Commissioners and Interested Parties

FROM: Al Wanger, Deputy Director
Alison Dettmer, Manager, Energy and Ocean Resources Unit
Tom Luster, Analyst

RE: Proposed Memorandum of Agreement between the Coastal Commission and the Energy Commission regarding the role and duties of each during the Energy Commission's Application For Certification (AFC) review

Summary:

Staff has prepared the attached draft Memorandum of Agreement (MOA) for your consideration and possible approval. The MOA is a proposed agreement between the Coastal Commission and the state Energy Commission to clarify the roles and duties expected of each Commission during review of proposed projects at existing coastal power plant sites. Its primary focus is to ensure that the Energy Commission's review process provides the information necessary for timely submittal of reports required from the Coastal Commission during that review. Those reports are to specify any measures necessary for the proposed project to conform to the Coastal Act. Provisions of this proposed MOA are based on existing statutory and regulatory requirements. It does not create new requirements or change existing ones.

Staff Recommendation: Staff recommends the Commission **approve** the MOA and authorize the Chair to sign the document on behalf of the Commission.

Background:

The Warren-Alquist Act provides the Energy Commission with exclusive permitting authority over new or modified thermal power plant projects that would increase generating capacity by 50 megawatts or more[1]. The Energy Commission exercises its authority using two main types of review – the "Notice of Intent" (NOI) process focuses primarily on identifying appropriate sites for proposed new facilities, while the "Application For Certification" (AFC) process is used to review proposed projects at existing power plant sites. The AFC process may or may not be preceded by an NOI review. Due to a change in the statute several years ago, most proposed projects now undergo only the AFC review, and this MOA addresses only the AFC process.

[1] The Energy Commission's exclusive authority is tempered by provisions of federal law that require certain water quality permits to be issued only by the State or Regional Water Quality Boards and air quality permits to be issued only by Air Quality Management Districts. Additionally, the State Lands Commission retains its authority for issuing leases for the use by power plants of state tidelands.

The Warren-Alquist Act and Coastal Act provide for Coastal Commission involvement in NOI and AFC processes for projects proposed within the coastal zone. The Coastal Commission's primary responsibility during Energy Commission review is to submit to the Energy Commission a report that includes any specific provisions necessary for the proposed project to conform to Coastal Act policies. The Energy Commission is to then adopt those provisions as part of its final project approval, unless it finds that the provisions are infeasible or would cause greater adverse environmental impacts.

Elements of the MOA:

The main focus of the MOA is to ensure that the Energy Commission's AFC review provides the information necessary for the Coastal Commission to complete its required report in a timely manner. It addresses this issue through the following main elements:

- Identifying Areas of Common Understanding: The MOA describes provisions of the Warren-Alquist Act and Coastal Act related to review of power plants in the coastal zone and acknowledges that the Energy Commission's AFC review requires consideration of a 30413(d) report submitted by the Coastal Commission.

- Timing: It clarifies that the Coastal Commission's report is to be submitted in time to be considered during the Energy Commission's evidentiary hearings and acknowledges that the Coastal Commission needs certain information to be developed through the AFC process before it can complete its report.

- Information Needed: The MOA identifies some of the standard information the Coastal Commission needs when reviewing proposed coastal power plant projects, and commits the Energy Commission to provide that information or to update its regulations to ensure that the needed information is provided as part of future AFC reviews for coastal power plants.

- Coordination: It identifies the process by which the staff of each Commission staff will interact and coordinate during AFC reviews.

- Changed Circumstances: It clarifies that the Coastal Commission may amend its report if the project changes substantially after submittal of that report.

- Other: It includes provisions for amending or canceling the agreement, and for resolving disputes that may arise over its implementation.

The Energy Commission will be considering this MOA at its April 13, 2005 Business Meeting.

Motion:

> *I move that the Commission authorize the Chair to sign the attached Memorandum of Agreement on behalf of the Commission.*

March 31, 2005

DRAFT
AGREEMENT

Between
The California Energy Commission and
the California Coastal Commission
Regarding
The Coastal Commission's Statutory Role
in the Energy Commission's AFC Proceedings

PURPOSE:

The 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. The agreement recognizes the exclusive authority of the Energy Commission to certify sites and related facilities subject to the siting and timing requirements of the Warren-Alquist State Energy Resources Conservation and Development Act (Public Resources Code Section 25500 et seq.). The agreement also recognizes the Coastal Commission's role in AFC proceedings as described in the Warren-Alquist Act, Public Resources Code section 25523(b), and in the California Coastal Act, Public Resources Code section 30413(d).

This agreement describes the manner in which the two Commissions and their staffs will coordinate during AFC reviews in four main issue areas:

I. Timing of the Coastal Commission's 30413(d) Report
II. Information Necessary to Complete the Coastal Commission's 30413(d) Report and How the Information will be Obtained
III. Staff Coordination During AFC Proceedings
IV. Supplemental Coastal Commission Review For Substantial Project Changes

This agreement additionally establishes the process for resolving disagreements between the two Commissions and staffs and describes the process for canceling the agreement. It also includes three attachments:

A. Energy Commission Power Plant Permitting Timeline for Coastal Projects
B. List of Coastal Act Provisions and Information Needed During AFC Review of Proposed Coastal Power Plants
C. Staff Coordination and Timeline for Producing 30413(d) Report During AFC Proceedings

WHEREAS:

I. Pursuant to requirements of the Warren-Alquist Act, the Energy Commission has exclusive authority to certify thermal power plants with a generating capacity of 50 megawatts or more and certain electric transmission lines. The AFC process may or may not be preceded by a Notice of Intention (NOI) process to determine an appropriate site for a proposed facility. During the NOI and AFC processes, Energy Commission staff acts as an independent party and is responsible for conducting an assessment of the environmental effects, safety, and reliability of the facility, and the facility's conformity with applicable laws. The AFC timeline is described in Attachment A.

II. Pursuant to requirements of Sections 25523(b) and 30413(d), the Coastal Commission is responsible, during the AFC proceeding for each project, for reviewing thermal power plant projects proposed in the coastal zone and providing a report to the Energy Commission specifying provisions regarding the proposed site and related facilities to meet the objectives of the California Coastal Act. As stated in Section 30413(d), the report is to include findings on all of the following:

1) The compatibility of the proposed site and related facilities with the goal of protecting coastal resources.
2) The degree to which the proposed site and related facilities would conflict with other existing or planned coastal-dependent land uses at or near the site.
3) The potential adverse effects that the proposed site and related facilities would have on aesthetic values.
4) The potential adverse environmental effects on fish and wildlife and their habitats.
5) The conformance of the proposed site and related facilities with certified local coastal programs in those jurisdictions which would be affected by any such development.
6) The degree to which the proposed site and related facilities could reasonably be modified so as to mitigate potential adverse effects on coastal resources, minimize conflict with existing or planned coastal-dependent uses at or near the site, and promote the policies of this division [the California Coastal Act].
7) Such other matters as the commission deems appropriate and necessary to carry out this division.

Section 25523(b) and section 1752(d) of the Energy Commission's regulations (Cal. Code Regs., tit. 20, § 1752 subd. (d)) require the Energy Commission to then adopt the specific provisions specified in the Coastal Commission's report as conditions of certification in its final AFC decision unless the Energy Commission finds that any such provisions either would be infeasible or would cause greater adverse effect on the environment.

III. Each Commission believes it is in the best interest of the state and in the mutual interest of both Commissions to complete the necessary AFC review in a manner that is both timely and comprehensive in order to assure the compliance of each Commission with its respective statutory and regulatory requirements.

IV. Staff of each Commission have interacted in past and current AFC reviews to help each Commission fulfill its respective responsibilities, and have developed a common understanding of the statutory and regulatory requirements of each Commission during the AFC review. Both the Energy Commission and the Coastal Commission have recognized this relationship in recent AFC decisions and 30413(d) reports.

V. Each Commission believes it is useful to enter into this Memorandum of Agreement to ensure a shared understanding of their respective roles and responsibilities during the AFC review, to maintain clear communication and expectations between the two Commissions and their staffs, and to assure that the reviews and analyses necessary during an AFC review are completed in a thorough and timely manner.

THEREFORE:

The Energy Commission and the Coastal Commission agree to the following:

I. Timing of the Coastal Commission's Section 30413(d) report

A. In accordance with the California Coastal Act and the Warren-Alquist Act, the Coastal Commission must provide its report to the Energy Commission in time for the Presiding Member's Proposed Decision (PMPD) to consider the report's specific provisions to meet the objectives of the Coastal Act. In addition, the Energy Commission must incorporate those specific provisions as conditions of certification in both the PMPD and the final decision, subject to the exceptions under Section 25523(b).

B. The PMPD must, by regulation (Cal. Code Regs., tit. 20. § 1751), be based exclusively on the hearing record of the AFC proceeding. Therefore, in order for the Coastal Commission's report to be the basis of conditions of certification in the Energy Commission's decision, the Coastal Commission will provide the report in time to be entered into the Energy Commission's hearing record at an evidentiary hearing in the AFC proceeding.

C. Decisions by the Coastal Commission to approve a 30413(d) report for submittal to the Energy Commission are subject to the provisions of California's Open Meetings Act (Government Code Section 11120 et seq.), which requires the Coastal Commission to hold a noticed public hearing for such actions, and are additionally subject to applicable provisions of the Coastal Commission's regulations (CCR, Cal. Code Regs., tit.14, § 13001 et seq.).

D. The Coastal Commission will provide a report addressing the factors in Section 30413(d) as early as feasible after it receives the information necessary to complete the report and holds the necessary public hearing, and in time for the parties to prepare for the AFC hearings required pursuant to section 1748 of the Energy Commission's regulations (Cal. Code Regs., tit.20, § 1748). (See Attachment C)

E. The ability of the Coastal Commission to meet the hearing schedule of an AFC proceeding (see Attachment A) depends largely on receipt by the Coastal Commission and its staff of information necessary to produce that report. To ensure that the Coastal Commission receives information needed for the report in timely fashion, the two Commissions and staffs will coordinate as described in subsequent sections of this Agreement.

II. Information necessary for the Coastal Commission to complete its 30413(d) reports for proposed projects in California's coastal zone

A. Section 1704 and Appendix B of the Energy Commission's siting regulations in Title 20, California Code of Regulations, section 1701 et seq., contain the informational requirements that an AFC must meet to be accepted as complete. Pursuant to Section 1709 (Cal. Code Regs., tit. 20, § 1709), the Energy Commission reviews any siting application that is submitted to it to ensure that it satisfies the informational requirements of Section 1704 and Appendix B, and, on the basis of such review, determines whether the application is complete.

B. The Coastal Commission is to include in its report to the Energy Commission findings as specified in Section 30413(d) of the Coastal Act, which will be based in large part on information obtained by the Energy Commission about a proposed project and its likely effects on coastal resources.

C. For projects undergoing AFC review that are proposed to be located in the coastal zone, the Energy Commission recognizes that the Coastal Commission is likely to need different information about certain aspects of a proposed project than might be required of proposed projects outside of the coastal zone for purposes of meeting the informational requirements. The Coastal Commission may need this different information to evaluate the potential effects of a proposed project on various coastal resources or to determine the conformity of the proposed project to policies of the Coastal Act or certified Local Coastal Programs and, on the basis of such evaluation, to specify, pursuant to Section 30413(d), the findings and specific provisions required to bring a proposed project into conformity with the objectives of the California Coastal Act.

D. A list of the standard minimum information needed for any 30413(d) report, along with the applicable Coastal Act provisions that create the need for this information, is provided in Attachment B. The information includes the following:

- Entrainment: For projects involving the use of ocean water, analysis of the proposed project's entrainment impacts based on recent and applicable entrainment data from the proposed project site.
- Coastal erosion: Evaluation of any new or modified shoreline protective devices that may be needed during the anticipated operating life of the proposed project.
- Public access: Analysis of the proposed project's effects on public access to the shoreline.
- Visual resources: Evaluation of the proposed project's effects on coastal visual resources.

E. The Energy Commission recognizes that its siting regulations (Appendix B of Title 20, Section 1701 et seq.) currently provide for requiring most, if not all, of the standard information needed by the Coastal Commission. Energy Commission staff will make Attachment B available to potential applicants interested in the AFC process for coastal projects and will encourage them to provide all the information in their applications. To the extent information identified in Attachment B may go beyond the scope of the Energy Commission's informational requirements in its siting regulations, Energy Commission staff will undertake a rule-making to amend the Energy Commission's regulations to clarify or require additional information that is relevant to the Coastal Commission's report and needed to find the AFC for a coastal project complete.

F. In addition to the standard information needed for coastal power plants, Coastal Commission staff will develop project-specific information requests as specified in this Agreement during the initial review and discovery phases for each AFC process. The process for requesting this project-specific information is described in Attachment C of this MOA as set forth below.

III. Coordination During AFC Proceedings

A. The AFC review process includes a number of steps during which it would be mutually beneficial for the two staffs to coordinate, exchange information, or discuss issues. This coordination, as detailed in Attachment C, includes early notice from Energy Commission staff to Coastal Commission staff about preliminary AFC submittals, requests by both staffs for additional information as needed during the discovery phase of the AFC review process, and ongoing involvement by Coastal Commission staff as feasible and necessary during the various phases of the Energy Commission's AFC process.

B. Coastal Commission staff will keep Energy Commission staff informed of the status of the data requests relevant to the 30413(d) report and any other matters related to the report and its issuance by the Coastal Commission. Energy Commission staff will include such information in its monthly status reports to the AFC committee. In the case of delinquent data responses, the staffs of the two Commissions will confer about whether to file a motion to compel responses and whether to seek a day-for-day slip in the AFC schedule, pending receipt of all the information requested in the outstanding data requests.

C. Coastal Commission staff will prepare a draft 30413(d) report for consideration at a noticed public hearing of the Coastal Commission. Coastal Commission staff will provide notice of that hearing to the Energy Commission, the AFC applicant, intervenors, and other interested parties to allow those parties an opportunity to comment in writing or verbally to the Coastal Commission before or during the hearing on the findings and provisions proposed to be submitted in the 30413(d) report.

D. Upon approval by the Coastal Commission of a 30413(d) report, Coastal Commission staff will submit the report to the Energy Commission. A representative of the Coastal Commission or its staff will sponsor the report into the Energy Commission's evidentiary record and be available at appropriate Energy Commission workshop(s) and hearing(s) to answer any questions about the report.

E. Energy Commission staff will ensure that Coastal Commission staff is timely informed of all project changes that occur or are proposed during Energy Commission review. Coastal Commission staff will determine whether changes to the proposed project are substantial enough to require supplemental review as described in the following Section IV.

F. The staffs of both Commissions shall work together to refine the timeline in Attachment C, pending a rulemaking to amend Appendix B in the Energy Commission's siting regulations, to coordinate further their roles and responsibilities with respect to the submittal of the 30413(d) report in accordance with the terms and objectives of this Agreement.

IV. Supplemental Coastal Commission Review Upon Substantial Changes to Proposed Projects

A. If a proposed project changes substantially between the time the Coastal Commission issues its 30413(d) report and the time the Energy Commission's AFC committee closes the evidentiary record or re-opens the record to accept additional evidence, the Coastal Commission shall be provided the opportunity to supplement its original report, pursuant to a schedule to be established by the AFC committee, taking into account the time needed for the Coastal Commission to adopt a supplement. The Coastal Commission will review the changed project and provide any new or modified specific provisions that the Coastal Commission determines to be necessary or appropriate to ensure the report will include the determinations required by Section 30413(d) with respect to the changed project. The Energy Commission will include those new or modified provisions in its final decision, except where it finds a provision would result in greater adverse environmental impact or would be infeasible.

For purposes of this agreement, a substantial change is defined as a change to the proposed site or related facilities that would affect coastal resources in a manner substantially different from what was reviewed by the Coastal Commission in its initial 30413(d) report.

B. When Coastal Commission staff determines that a substantial change has occurred, it will notify the Energy Commission's AFC committee as soon as possible within 15 days of receiving information of the substantial change of its intent to supplement its 30413(d) report for the Energy Commission's AFC committee to consider under Section 25523(b). The Coastal Commission or its staff may also determine that, even if a substantial change has occurred, there is no need to supplement the original 30413(d) report.

V. Resolving disagreements

If there are disagreements between the two Commissions or their staffs regarding the provisions of this agreement or other matters related to the 30413(d) report, representatives of each staff will meet to discuss the issues in dispute and shall work towards agreement.

If agreement is not reached within twenty-one days of this initial meeting, the Executive Directors of the two Commissions or their representatives shall confer to attempt to resolve the disagreement.

VI. Amendments

This agreement may be amended by mutual agreement of the two Commissions.

VII. Cancellation

This agreement is in effect until either Commission requests cancellation with a 30-day written notice to the other.

CONCURRENCE

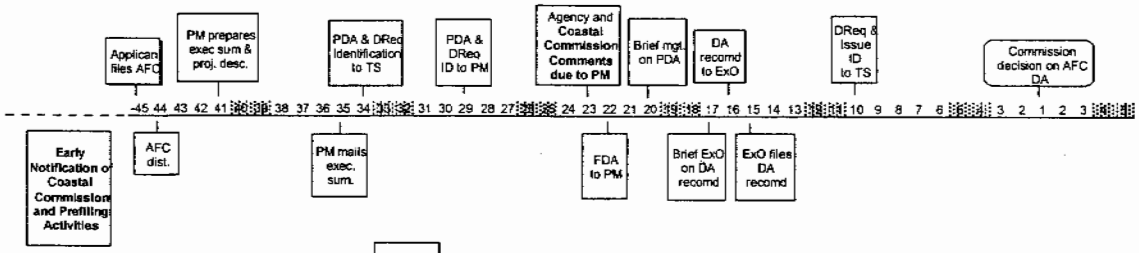
The Energy Commission and the Coastal Commission agree to the terms of this agreement, as evidenced by the signatures of their representatives below.

Signed,

_____	_____
Jackalyne Pfannenstiel, Vice Chair, Energy Commission	Meg Caldwell, Chair, Coastal Commission
Date: _____	Date: _____

MOA – ATTACHMENT A: CALIFORNIA ENERGY COMMISSION POWER PLANT PERMITTING TIMELINE FOR COASTAL PROJECTS

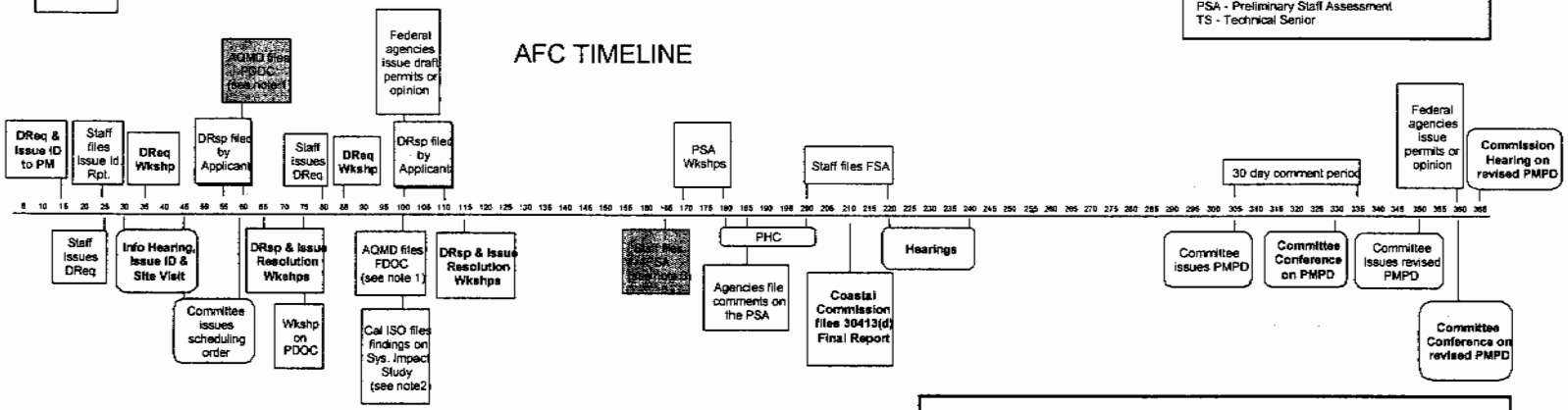
AFC DATA ADEQUACY

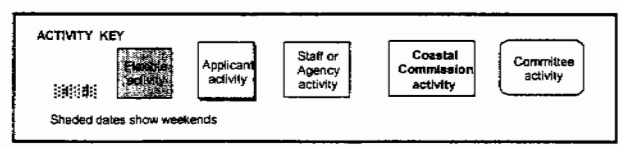


Key to abbreviations

AFC - Application for Certification
AQMD - Air Quality Management District
Cal ISO - California Independent System Operator
DA - Data Adequacy
DFSA - Draft Final Staff Assessment
DPSA - Draft Preliminary Staff Assessment
DRsp - Data Responses
ExO - Executive Office
FDA - Final Data Adequacy
FDOC - Final Determination of Compliance
FDReq - Final Data Requests
FSA - Final Staff Assessment
ID - Issue Identification
IS - Interconnection Study
PDA - Preliminary Data Adequacy
PDOC - Preliminary Determination of Compliance
PDReq - Preliminary Data Requests
PHC - Prehearing Conference
PM - Project Manager
PMPD - Presiding Member's Proposed Decision
PSA - Preliminary Staff Assessment
TS - Technical Senior

AFC TIMELINE





Notes:
1 The timing of the PDOC and FDOC will depend on the cooperation of the AQMD.
AB970 requires agencies to provide final permits in 100 days. In past practice, the districts have typically filed the PDOC 180 days, and the FDOC 240 days, after the AFC is accepted.

2 Timing of the Cal ISO comments will depend on when the Transmission Interconnection Study is initiated by the applicant.

3 The time required to file the PSA will be shortened if issues are resovled early and easily.

Revised: March 24, 2005

MOA – ATTACHMENT B: Standard Minimum Information Needed During AFC Review of Proposed Coastal Power Plants, with Related Provisions of the Coastal Act and Energy Commission Regulations: This table describes key elements of the standard minimum information needed to complete the Coastal Commission's Section 30413(d) report, along with applicable references to both the Coastal Act and the Energy Commission regulations related to the necessary information. The Coastal Commission's review of specific AFC proposals will likely require additional information, which will be acquired as described in the MOA.

The table describes standard minimum information needed in four subject areas – the proposed project's likely effects on marine biological resources, on public access to the shoreline, on coastal erosion, and on visual and scenic coastal resources. Under each category, the first column describes Coastal Act policies applicable to the needed information, and the second column provides a cross-reference to the applicable Energy Commission regulation.

Issue Area – Effects of Proposed Project on Marine Biology: For proposed projects using ocean water, information needed includes an analysis of likely impacts to marine biological resources based on recent and applicable entrainment data from the site of the proposed project acceptable to the Coastal Commission.	
Primary Applicable Coastal Act Policies: Coastal Act Section 30230: "Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes." Coastal Act Section 30231: "The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams."	***Primary Applicable Data Adequacy Requirements:*** Appendix B(g)(13)(B): "A discussion and detailed maps of the biological resources at the site of the proposed project and related facilities, and in areas adjacent to them, out to a mile from the site and 1000 feet from the outer edge of linear facility corridors. Include a list of the species actually observed and those with a potential to occur…" Appendix B(g)(13)(D): "A discussion of all permanent and temporary impacts to biological resources from site preparation, construction activities, and plant operation. Discussion of impacts must consider impacts from cooling tower drift, and from the use and discharge of water during construction and operation. For facilities which use once-through cooling or take or discharge water directly from or to natural sources, discuss impacts resulting from entrainment, impingement, thermal discharges, effluent chemicals, type of pump (if applicable), temperature, volume and rate of flow at intake and discharge location, and plume configuration in receiving water."

Issue Area – Effects of Proposed Project on Public Access to the Shoreline: For proposed projects on or adjacent to the shoreline or that affect public access to the shoreline, information needed includes a description of existing public access, how that access may be affected by project construction and operation, and mitigation measures intended to provide maximum feasible access.	
Primary Applicable Coastal Act Policies: Coastal Act Section 30210: "In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse." Coastal Act Section 30211: "Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation." Coastal Act Section 30212(a): "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or, (3) Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway."	***Primary Applicable Data Adequacy Requirements:*** Appendix B(g)(3)(A): "A discussion of existing land uses and current zoning at the site, land uses and land use patterns within one mile of the proposed site and within one-quarter mile of any project-related linear facilities. Include: (i): An identification of residential, commercial, industrial, recreational, scenic, agricultural, natural resource protection, natural resource extraction, educational, religion, cultural, and historic areas, and any other area of unique land uses…" Appendix B(g)(3)(B): "A discussion of the compatibility of the proposed facilities with present and expected land uses, and conformity with any long-range land use plans adopted by any federal, state, regional, or local planning agency. The discussion shall identify the need, if any, for variances or any measures that would be necessary to make the proposal conform with permitted land uses."

Issue Area – Effects on Coastal Erosion: Information needed includes existing and anticipated rates of shoreline erosion, wave and tsunami runup, flood levels, and other similar phenomena, and identification of any new or modified shoreline protective measures needed to protect the proposed project.	
Primary Applicable Coastal Act Policies: Coastal Act Section 30253: "New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."	***Primary Applicable Data Adequacy Requirements:*** Appendix B(b)(1)(D): "A description of how the site and related facilities were selected and the consideration given to… site geology…" Appendix B(g)(14)(B)(iii): "Water inundation zones, such as the 100-year flood plan and tsunami run-up zones." Appendix B(g)(14)(iii): "The effects of the project on the 100-year flood plain or other water inundation zones." Appendix B(g)(15)(C)(i): "The quantification of accelerated soil loss due to wind and water erosion." Appendix B(i)(1)(A): "A description of site conditions and investigations or studies conducted to determine the site conditions used as the basis for developing design criteria. The descriptions shall include, but not be limited to, seismic and other geologic hazards, adverse conditions that could affect the project's foundation, adverse meteorological and climatic conditions, and flooding hazards, if applicable." Appendix B(g)(17)(a): "A summary of the geology, seismicity, and geologic resources of the project site and related facilities."

Issue Area – Effects on scenic and visual resources: Information needed includes a description of existing visual conditions at and near the project site, analysis of existing and proposed views of the project and site, and a description of measures available to protect, restore, and enhance visual quality for proposed projects in visually degraded areas.	
Primary Applicable Coastal Act Policies: Coastal Act Section 30251: "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting."	***Primary Applicable Data Adequacy Requirements:*** Appendix B(g)(6)(F): "An assessment of the visual impacts of the project, including light and glare, and visible plumes." Appendix B(h)(1)(A): "Tables which identify laws, regulations, ordinances, standards, adopted local, regional, state, and federal land use plans, and permits applicable to the proposed project, and a discussion of the applicability of each. The table or matrix shall explicitly reference pages in the application wherein conformance, with each law or standard during both construction and operation of the facility is discussed." Appendix B(h)(2): "A discussion of the conformity of the project with the requirements listed in subsection (h)(1)(A)."

MOA ATTACHMENT C – Staff Coordination and Timeline For Producing 30413(d) Report During AFC Proceedings

The AFC review process includes a number of steps during which it would be mutually beneficial for the two staffs to coordinate, exchange information, or discuss issues. Staff of both Commissions will be involved to the extent feasible during these steps to develop and clarify any information requests necessary to complete the 30413(d) report. The steps include the following:

- **Prior to AFC Filing:** When feasible, the Energy Commission staff will provide notice to the Coastal Commission staff of opportunities, including but not limited to, any "pre-filing review" pursuant to Title 20, California Code of Regulations, section 1709.5, to coordinate with a potential applicant before an AFC for a coastal project is filed. These may include pre-submittal meetings with potential applicants or their representatives, meetings between the two staffs, or other similar opportunities. When feasible, the Coastal Commission staff will attend those meetings or will provide written or oral comments that identify any specific information needs known at that point in the review. The Energy Commission staff will also provide a copy of Attachment B to applicants.

- **Filing of an AFC:** For all AFCs of sites and related facilities in the coastal zone, the Energy Commission staff will provide a copy of the AFC to the Coastal Commission staff within five days of receipt of the AFC. The Coastal Commission staff will provide initial information requests within 20 days of receipt of the AFC.

- **Prior to Energy Commission's Determination That an AFC is Complete:** Pursuant to Public Resources Code section 25522(b) and Title 20, California Code of Regulations, section 1709, the Energy Commission staff reviews an AFC to determine whether it meets the informational requirements of the Energy Commission's regulations and, if so, recommends to the Energy Commission that the application be accepted as complete. During this period of up to 30 days, the Energy Commission staff will confer with the staff of the Coastal Commission regarding the sufficiency of information provided in the AFC relevant to allowing completion of the 30413(d) report. To the extent feasible, the Coastal Commission staff will provide detailed and specific requests for the information needed to complete the 30413(d) report. If any such requests go beyond the scope of informational requirements in the Energy Commission's regulations, the Energy Commission staff will send such requests to the applicant immediately following acceptance of the AFC as complete pursuant to the Energy Commission's regulations.

- **Review of Accepted AFC:** There are numerous opportunities for staff coordination between the time the Energy Commission determines an AFC is complete and issuance of the final Energy Commission decision on the proposed project. These opportunities include:
  - Data requests and workshops during discovery phase
  - Consultation during the analysis phase
  - Comments and workshop(s) on the Preliminary Staff Assessment (PSA)
  - Consultation on the Final Staff Assessment (FSA)
  - Consultation on prehearing conference statements
  - Testimony at evidentiary hearing(s)
  - Review of the Presiding Member's Proposed Decision (PMPD)
  - AFC committee hearing on the PMPD
  - Energy Commission final hearing on PMPD

Coastal Commission staff understands that the primary opportunity for submitting additional data requests to obtain information needed for the 30413(d) report is during the discovery phase after acceptance of the AFC and before the Energy Commission staff files its PSA. If there are data needed, in addition to the information provided in the AFC or specified by Coastal Commission staff during the initial review of the AFC, to complete the 30413(d) report, Coastal Commission staff will provide the Energy Commission staff with the appropriate data requests within 15 days after the AFC is deemed complete. Energy Commission staff will submit those data requests to the applicant within 10 days.

If responses to those data requests create a need for clarification or additional data, Coastal Commission staff will inform Energy Commission staff within 15 days of the receipt of the data responses. If there are substantial changes to the proposed site or related facilities, Coastal Commission staff will inform Energy Commission staff of any new data needs that arise as a result of those changes within 15 days of receipt of the changes.

Energy Commission staff will confer with the Coastal Commission staff to help ensure that all data requests are timely served and the informational needs of the Coastal Commission to complete the 30413(d) report are timely satisfied.

Coastal Commission staff will use their best efforts to file the final 30413(d) report prior to Energy Commission staff filing their Final Staff Assessment.

Pending a rulemaking to amend Appendix B in the Energy Commission's siting regulations, the staffs of both Commissions will continue to work together to refine the timeline for the submittal of the 30413(d) report in AFC proceedings in accordance with the Agreement between the two Commissions.