

BOARD MEETING DATE: March 4, 2016

AGENDA NO. 38

PROPOSAL: Approve Proposed Guidelines for Disbursement and Tracking of Funds Received Pursuant to Rule 1304.1 – Electrical Generating Facility Fee for Use of Offset Exemption

SYNOPSIS: Proposed guidelines have been developed for the use of funds received pursuant to Rule 1304.1 – Electrical Generating Facility Fee for use of Offset Exemption, with targets for projects within close proximity of the Electrical Generating Facilities and in Environmental Justice areas that support regional air quality goals. This action is to obtain approval of the proposed guidelines for disbursement and tracking of funds received pursuant to Rule 1304.1.

COMMITTEE: Stationary Source, Reviewed, January 22 and February 19, 2016

RECOMMENDED ACTION:

Approve the proposed guidelines for disbursement and tracking of funds received pursuant to Rule 1304.1 – Electrical Generating Facility Fee for Use of Offset Exemption.

Barry R. Wallerstein, D.Env.
Executive Officer

Background

The Board adopted Rule 1304.1 – Electrical Generating Facility Fee (EGF) for Use of Offset Exemption in September 2013. The rule allows the option to use offsets, at fee rates set in the rule, from the SCAQMD internal offset accounts for repowering Steam Utility Boilers in the South Coast Air Basin (SoCAB). The Once-Through-Cooling (OTC) mandates approved by the State Water Resources Control Board¹ are likely to result in a significant increase in the need for offsets and corresponding debits from the SCAQMD internal offset accounts. Offsets in the SCAQMD internal offset accounts are valuable public goods and the purpose of Rule 1304.1 is to recoup the fair market value for the use of such offsets when qualifying sources exercise the existing offset exemption in Rule 1304(a)(2). Rule 1304.1(d)(1) requires that:

1. “Except as set forth in Paragraph (d)(2), the Offset Fee proceeds paid pursuant to this Rule shall be deposited in an SCAQMD restricted fund account...”;
2. “...shall be used to obtain emissions reductions consistent with the needs of the Air Quality Management Plan”; and
3. “Priority shall be given to funding air quality improvement projects in impacted surrounding communities where the repowering EGF projects are located.”

The Board, as part of the adopting Resolution, directed staff to work closely with stakeholders including the California Public Utilities Commission (CPUC), the California Independent System Operators (CAISO), California Energy Commission (CEC), California Air Resources Board (CARB), and other interested stakeholders on guidelines outlining how any future fee revenues generated from Rule 1304.1 could be utilized to obtain emission reductions consistent with the needs of the AQMP.

Following the Board’s direction:

- A designated restricted fund (Fund 66) has been established to track the deposit of fees paid and the withdrawal of funds for approved projects. The first deposit to Fund 66 was in August 2015 in the amount of approximately \$242,215 paid by the Los Angeles Department of Water and Power for an increase in generation capacity of 8.9 MW at their Scattergood facility. It should be noted that any interest accrued in the fund will also be invested in projects/programs.

¹ On May 4, 2010, the State Water Resources Control Board (SWRCB) approved a once-through-cooling (OTC) policy that included many grid reliability recommendations made by the California Independent System Operator (ISO), as well as a joint implementation proposal developed by the California Energy Commission (CEC), California Public Utilities Commission (CPUC), and California ISO. The Office of Administrative Law approved the policy on September 27, 2010, and it became effective on October 1, 2010. The regulation affected 19 California power plants totaling about 17,500 MW; [currently potentially 9 power plants in the SoCAB are impacted totaling 5,741 MW – see Attachments 2 and 3]

- New work program codes have been developed to track staff time spent on development and implementation of Rule 1304.1. This is needed because the rule allows up to 8% of Offset Fee proceeds be used to cover administrative costs related to the implementation of this rule.
- Staff is proposing guidelines for rule implementation, including outreach activities for RFP release advertisement, and procedures for proposal evaluation and awarding of contracts in selecting qualifying projects.

Proposed Guidelines

The proposed guidelines can be found in attachment 1 and are based on the following information:

Staff is proposing that the following criteria be established for the use of Rule 1304.1 funds, which are generally consistent with the criteria for the use of funds received from the Competitive Power Ventures (CPV) Sentinel project via AB1318. All projects and programs will be brought to the Board for final approval and funding.

Based on direction provided by the Stationary Source Committee (SSC), staff recommends the following funding distribution for Rule 1304.1 implementation, with Board discretion to make future adjustments:

- A goal of 50% of the net funds to be used within a ten (10) mile radius of the repowered EGF; and
- A goal of 50% of the net funds to be used in environmental justice areas within a fifteen (15) mile radius of the repowered EGF

The proposed definition for close proximity to the repowering project is defined as a 10 mile radius. The proposed definition of environmental justice (EJ) area is consistent with the latest Carl Moyer definition for South Coast Air Basin (SoCAB) and the AB 1318 definition for the Coachella Valley, and includes poverty and air quality criteria that must both be met and is defined, as follows:

Poverty Criteria

An area where at least 10 percent of the population falls below the Federal Poverty Level, based on the most recently published American Community Survey data, AND

Air Quality Criteria

- SoCAB
 - (A) the highest 15th percentile of PM2.5 concentration measurements interpolated to a two (2) kilometer grid of the most recently

published final Multiple Air Toxics Emissions Study (MATES) modeling domain; OR

(B) the highest 15th percentile of cancer risk as calculated in the most recently published final MATES.

- Coachella Valley (CV)

The highest 15th percentile of PM10 concentration in CV².

Projects selected will typically be implemented through a Request for Proposal (RFP) process, when a recommended minimum of \$1,000,000 is available per RFP. RFPs may be issued annually or as funds become available based on the schedule of the various repowering projects. Projects may qualify under either proximity or EJ or both based on location. The Board will have the discretion to fund projects consistent with the target criteria, although not necessarily at the exact percentage goals.

Specific RFP criteria may need to be tailored to a single repowering project or multiple projects based on timing, project location(s), and funding availability. Proposals will be evaluated based on criteria established by the Board through the release of the RFP, and staff recommendations forwarded to the Board for consideration. Selection criteria may include, but may not be limited to: expertise of the project proponent, assistance in attaining regional air quality goals, local job creation, effective use of funds, secondary or co-benefits, and community/local government support.

Should there be a lack of qualifying projects in close proximity or EJ areas, the Board has the discretion to redirect funding to areas outside of the 10 mile proximity radius or, for EJ area projects, to other EJ areas outside the 15 mile radius. Staff recommends that the Board use the funds as geographically close to the repowering project as possible. Should there be an abundance of qualified projects, the Board may prioritize projects based on the funding available for the maximum public benefit, shovel ready projects, and may also identify projects that can proceed as additional funds become available.

Projects that are scalable based on available funding and those that could be held as backup projects for an extended period of time without extensive revisions may also have advantages. Staff is proposing to provide for flexibility in the criteria to address the unique circumstances of each location and tailor approaches that maximize local benefits while addressing regional and long-term needs relative to public health and air quality improvement.

² In addition to the SoCAB, a portion of the Salton Sea air basin (the Coachella Valley area) and the Mojave Desert air basin are within the jurisdiction of the SCAQMD. These areas are currently in attainment for PM2.5, but have not been re-designated as attainment for PM10.

Attachment 2 lists the nine existing EGFs that could potentially repower using offsets from the SCAQMD internal accounts pursuant to Rule 1304(a)(2). Attachment 3 shows the SoCAB in more detail and includes the area within a 10 mile radius from the location of the EGFs anticipated to repower. Projects in these areas would qualify under the proximity criteria. Attachment 4 shows graphically the areas covered based on the definition of EJ within the jurisdiction of the SCAQMD. For the SoCAB, the two kilometer grid squares indicate EJ areas based on the Carl Moyer definition using PM2.5. For the portions of the two remaining air basins that are within the SCAQMD jurisdiction, EJ areas are determined based on poverty using census tract and PM10 concentration data. Attachment 5 shows EJ areas bounded by a 15 mile radius around each potential repowered facility. Attachment 6 is an overlay of Attachments 3 and 5 indicating where projects could potentially qualify under both criteria.

Public Process

Staff met a total of five times with a stakeholder working group during this process to establish the parameters and discuss guidance concepts.³ The working group was comprised of the electrical power generation industry, CPUC, CAISO, CEC, U.S.EPA, CARB, local governments, and environmental groups. The draft proposal for implementation guidelines was presented for comment at the fourth working group meeting on September 30, 2015.

Staff also presented suggested concepts for Rule 1304.1 implementation at both the January 22 and February 19, 2016 Stationary Source Committee meetings and at the Environmental Justice Advisory Group meeting on January 29, 2016. Staff held the fifth working group meeting on January 26, 2016 and presented the direction received from the Stationary Source Committee at the January 22, 2016 meeting, and requested additional feedback. The Committee's direction has been incorporated into this proposal, with a change of proximity radius from 6 to 10 miles and a bounding of EJ areas within a 15 mile radius.

Formal comments were submitted by the City of Huntington Beach on October 12, 2015 and February 2, 2016. The letters principally stated that staff's proposal does not follow the guidelines used to implement the Coachella Valley CPV Sentinel project and that the majority of funds should be spent in the city or county in which the repower project is located. Staff met with city representatives and responded that it believes the current proposal, which serves only as a guideline and not a mandate, closely follows the implementation guidance structure used for the CPV Sentinel project. Staff has recommended a goal that 50% of funds be spent within a 10 mile radius of the repower

³ Rule 1304.1 Implementation Working Group Meetings were held on: October 23, 2013; July 10, 2014 and November 20, 2014, prior to the release of the draft proposal at a subsequent meeting on September 30, 2015 and January 26, 2016.

project whereas the CPV Sentinel project implementation guidelines required only 30% be spent within a 6 mile radius with the remaining 70% set aside for projects in EJ and other areas, not necessarily in the same city as the project. A resident of Huntington Beach and City representatives have requested that funding criteria be fashioned such that the funds could be directed to mitigating the impacts of the Rainbow Recycling facility in the Oak View community described as an EJ area. Both are asking for a 6 mile radius bound on the EJ area criteria and use of CalEnviroScreen 2.0 as the basis for determining EJ areas. However, staff is concerned that CalEnviroScreen 2.0, an evolving online tool provided by the California Office of Health Hazard Assessment, is still in early development and does not focus on air quality impacts specifically, which is a requirement of Rule 1304.1 and the purpose of fund expenditures.

A comment letter submitted by the California State University (CSU) Office of the Chancellor requests the radius for the EJ area criteria be set at 18 miles to capture certain CSU campuses. CSU also supports funding project proponents that may be located outside an EJ area, but results in benefits to that area. Staff's proposal allows projects that benefit EJ areas to qualify for EJ funding.

Comments were also received by from the City of Glendale on October 30, 2015 which included a request for funding consideration of an expanded landfill digester power project and projects that include creation of a park, a community solar project where ownership would be offered to residents, and an energy storage project to help with peak energy demand. Staff met with city representatives and stated that all projects with a demonstrated emissions benefit could be considered in the aggregate with other proposals for funding.

Staff believes the proposal as outlined represents a balance of stakeholder interest, air quality improvement potential and EJ considerations.

Outreach

Outreach for the RFPs will follow a similar enhanced approach as used in AB 1318. Efforts will include outreach to local governments, and community and environmental groups, as well as other interested parties for use of funds in close proximity to the repowering projects. Input will also be sought for the use of funds in EJ areas, through expanded noticing, including multi-lingual avenues (e.g., newspapers, newsletters, etc.). Staff will also make itself available to answer questions and assist those needing assistance with developing viable proposals. Additionally, direction will be sought from the Board as projects come forward and are recommended for approval.

In accordance with SCAQMD's Procurement Policy, a public notice advertising the Program Announcement and Application and inviting bids will be published in the Los Angeles Times, the Orange County Register, the San Bernardino Sun, and Riverside

County's Press Enterprise newspapers to leverage the most cost-effective method of outreach to the South Coast Basin.

Additionally, potential bidders may be notified utilizing SCAQMD's electronic listing of certified minority vendors. Notice of the Program Announcement and Application will be emailed to the Black and Latino Legislative Caucuses and various minority chambers of commerce and business associations, and placed on the Internet at SCAQMD's web site (<http://www.aqmd.gov/>) where it can be viewed by making the selection "Grants and Bids."

Benefits to SCAQMD

Projects funded through the RFP process will implement the requirements of Rule 1304.1. Emission reductions realized through projects will benefit air quality, achieving emissions reductions needed to attain air quality standards and, thus, improve public health in the SCAQMD's jurisdiction.

Resource Impacts

Rule 1304.1 allows up to 8 percent of submitted funds to be used to cover administrative costs associated with program implementation.

Attachments

1. Proposed Guidelines for Disbursement and Tracking of Funds Pursuant to Rule 1304.1-Electrical Generating Facility Fee for Use of Offset Exemption
2. Detailed List of 9 Potential Repowering Projects (January 2016)
3. Proximity Criteria - Potential Repower (Power Plant) Project Locations With 10 Mile Radius Overlay
4. EJ Areas in the AQMD Showing 2km EJ Grids in the SoCAB and Highest 15th percentile of PM10 Concentration in the Coachella Valley
5. EJ Area Criteria - Potential Repower (Power Plant) Project Locations With 15 Mile Radius Overlay
6. Composite Overlay – 9 Potential Repower (Power Plant) Projects with 10 Mile Radius Proximity Overlay and EJ Area 18 Mile Radius Overlay

Attachment 1
**Proposed Guidelines for Disbursement and Tracking of Funds Received
Pursuant to Rule 1304.1 – Electrical Generating Facility (EGF) Fees for
Use of Offset Exemption**

The following guidelines are proposed for the disbursement of funds received pursuant to Rule 1304.1.

Funding Distribution

The distribution of funds received will be based on the following goals:

- 50 percent of net funds to be used within 10 mile proximity to the EGF; and
- 50 percent of net funds to be used within Environmental Justice (EJ) areas located within 15 miles to the EGF.

Projects can be eligible under either criteria or both.

EJ Areas Definition

EJ area is defined consistent with the Carl Moyer and AB1318, as follows:

- Poverty Criteria
An area where at least 10% of the population falls below the Federal poverty level based on the most recently published American Community Survey (ACS) data AND
- Air Quality Criteria
 - SoCAB (Carl Moyer)
 - The highest 15th percentile of PM2.5 OR
 - The highest 15th percentile of cancer risk from MATES
 - Coachella Valley (AB1318)
 - The highest 15th percentile of PM10 concentration

Implementation

Requests for Proposals (RFP) will be issued once a minimum of \$1 million is received. RFPs will be issued annually or as sufficient funds are received dependent on the varying repowering project scheduling. Staff will conduct expanded outreach to the public regarding the availability of funding.

Project proposals will be evaluated and scored. Staff will present recommendations to the Governing Board for consideration and approval. If an abundance of qualified projects exist, the Governing Board may prioritize based on available funding. If a lack of qualifying proposals exist, the Governing Board has the discretion to direct funds to other areas either outside 10 miles for proximity or to other EJ areas outside of 15 miles.

The Governing Board has the final decision on project approval and funding.

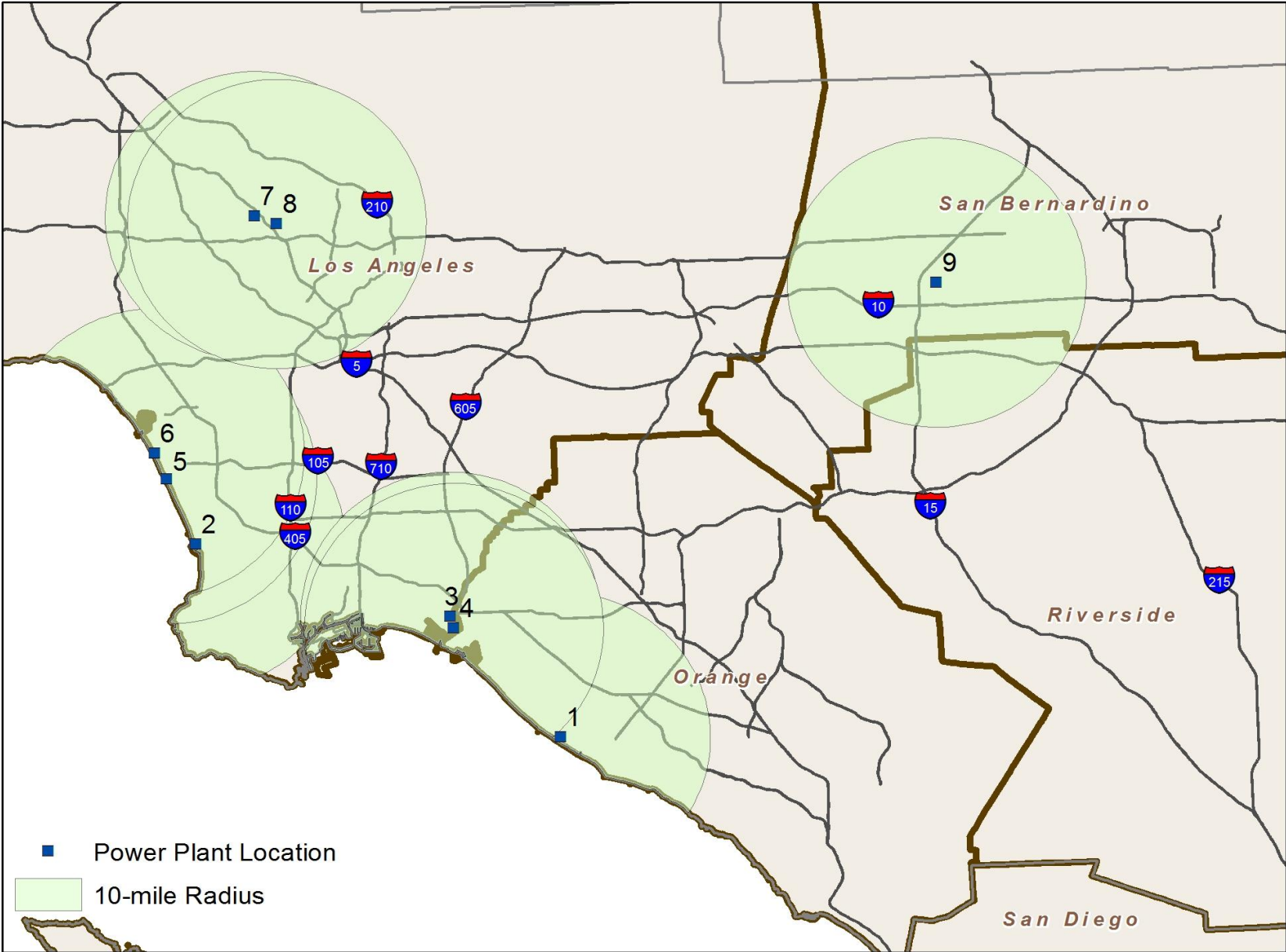
Tracking of Funds

A designated restricted fund (Fund 66) has been established to track the deposit of fees paid and the withdrawal of funds for approved projects. New work program codes have been developed to track staff time spent on development and implementation of Rule 1304.1. The rule provides that up to 8 percent of offset fee proceeds may be used to cover administrative costs related to the implementation of the rule. It should be noted that any interest accrued in the fund will also be put towards projects/programs.

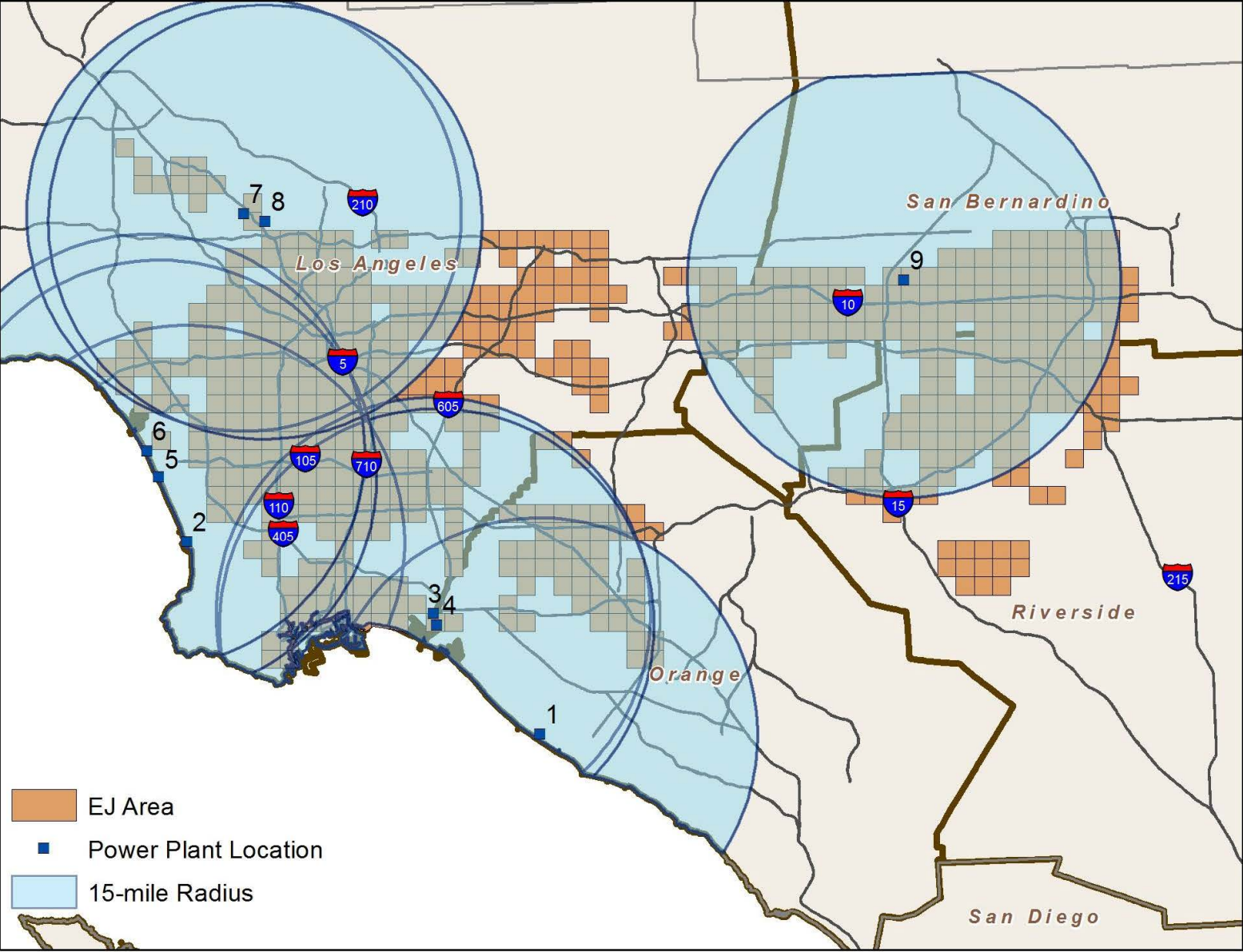
ATTACHMENT 2. Detailed List of 9 Potential Repowering Projects (January 2016)

Fac ID#	Name	Street Number	Street Dir	Street Name	Street Sfx	City	Zip	Proposed MW Repower (As of August 2015)
115389	AES HUNTINGTON BEACH, LLC	21730		NEWLAND	ST	HUNTINGTON BEACH	92646	430
115536	AES REDONDO BEACH, LLC	1100	N	HARBOR	DR	REDONDO BEACH	90277	1,310
115394	AES ALAMITOS, LLC	690	N	STUDEBAKER	RD	LONG BEACH	90803	1,950
800074	LA CITY, DWP HAYNES GENERATING STATION	6801		2ND	ST	LONG BEACH	90803	460
115663	EL SEGUNDO POWER, LLC	301		VISTA DEL MAR		EL SEGUNDO	90245	447
800075	LA CITY, DWP SCATTERGOOD GENERATING STN	12700		VISTA DEL MAR		PLAYA DEL REY	90293	297
25638	BURBANK CITY, BURBANK WATER & POWER	164	W	MAGNOLIA	BLVD	BURBANK	91502	99
800327	GLENDALE WATER & POWER (GRAYSON)	800		AIRWAY		GLENDALE	91201	108
115315	NRG GEN ON WEST, LP	8996		ETIWANDA	AVE	ETIWANDA	91739	640
TOTAL ESTIMATED REPOWER MW								5,741

ATTACHMENT 3. Proximity Criteria - Potential Repower (Power Plant) Project Locations with 10 Mile Radius Overlay



ATTACHMENT 5. EJ Area Criteria - Potential Repower (Power Plant) Project Locations with 15 Mile Radius Overlay



ATTACHMENT 6. Composite Overlay – 9 Potential Repower (Power Plant) Projects with 10 Mile Radius Proximity Overlay and EJ Area 15 Mile Radius Overlay

