

DOCKETED

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September 3, 2013

Via E-Mail

El Segundo Energy Center Petition to Amend (00-AFC-14C) Siting Committee
Commissioner Karen Douglas – Presiding Member
Commissioner Janae A. Scott – Associate Member
Paul Kramer – Hearing Officer
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: El Segundo Energy Center Petition to Amend (00-AFC-014C)
Applicant's Objections to Certain Data Requests in Set One (#1-83) and
Request for Extension to Submit Data Response 87 Contained in Set 2 (#84-87)

Dear Committee Members:

On or about August 13, 2013 and August 19, 2013, the Energy Commission (the "**Commission**") submitted Data Request Sets 1 and 2, respectively (collectively, the "**Data Requests**"), to the Applicant, El Segundo Energy Center LLC ("**ESEC LLC**" or "**Applicant**"), related to the Petition to Amend (the "**Petition**") for the El Segundo Energy Center ("**ESEC**") project (00-AFC-014C) (the "**Project**"). Since the Commission staff issued the Data Requests, Applicant has worked diligently to compile the responsive data sought by the Commission staff. However, pursuant to California Code of Regulations, Title 20, Section 1716(f), Applicant hereby notifies the Committee that it will need additional time beyond September 16, 2013 to prepare its response to Data Request 87, and in addition, that Applicant timely objects to Data Requests 57 through 60 as discussed below.

Request for Extension

Pursuant to Title 20, California Code of Regulations, Section 1716(f), Applicant herein requests an extension of time to respond to Data Request 87, because this request requires it to obtain additional information and conduct additional analysis. Accordingly, Applicant is unable to furnish the information requested in the aforementioned Data Request by the September 16, 2013 deadline for Data Request 2. Applicant seeks a thirty (30) day extension to respond to

Data Request 87, and therefore, respectfully requests that the Committee agree to extend the deadline for its response to this Data Request until October 16, 2013.

OBJECTIONS

In addition to Applicant's request for an extension of time in which to respond to Data Request 87, Applicant respectfully objects to the nitrogen deposition Data Requests 57 through 60, for the reasons explained below.

General Objections to All Nitrogen Deposition Data Requests.

Data Requests 57 through 60 seek information about the potential for and impacts of nitrogen deposition resulting from the Project. Applicant objects to Data Requests 57 through 60 as unnecessary because the proposed change to ESEC will reduce the generating facility's total maximum nitrogen emission rates below those found to be less than significant in the 2000 El Segundo Power Redevelopment Project Application (the "**2000 ESPR AFC**").

ESEC is located near the Los Angeles International Airport ("**LAX**"), the Chevron refinery and numerous other industrial and transportation facilities, in one of Southern California's most highly industrialized areas. Despite all of these nitrogen deposition sources in the vicinity of the ESEC site, in 2001, the modified ESEC's projected impact on cumulative regional nitrogen deposition rates was determined by the Staff to be less than significant. (2001 ESPR SA, page 4.2-21) Consequently, the Project is expected to have a less-than-significant impact on the cumulative local nitrogen deposition rates as well.

The 2000 ESPR AFC projected maximum, annual oxides of nitrogen ("**NOx**") emissions of 137 tons per year from then-proposed ESEC Units 5 and 7, and combined that amount with then-recent NOx emissions of 300 tons per year from Units 3 and 4, for a total of 437 tons per year. That total of 437 tons per year is well above the projected, future, maximum NOx emission rate for the ESEC facility, which is 183 tpy. (As a result of the 2010 ESPR amendment, Units 5 and 7 now have projected maximum, annual NOx emissions of 91 tons per year,¹ and Units 9, 11 and 12 have maximum projected emissions of 92 tons per year combined, for a total facility emission rate of 183 tpy.)

Moreover, the South Coast Air Quality Management District ("**SCAQMD**"), in which ESEC is located, has the most comprehensive emission control program for nitrogen compounds of any regulatory agency in the United States. Due to this emission control program, NOx emissions in the District have steadily reduced by more than fifty percent (50%) over the last twenty (20) years, and are projected to decrease further by 2020 and beyond. The 2000 ESPR AFC concluded that nitrogen deposition impacts associated with ESPR would not be significant based on the then-existing conditions, which were based on higher SCAQMD basin-wide NOx emissions (1177 tons per day in 2000 and 742 tons per day in 2010), and higher ESEC NOx emissions than the projected future NOx emissions for the modified ESEC facility. Therefore, the Project's reduction of NOx emissions at the ESEC facility, together with the reduction in NOx emissions throughout the South Coast Air Basin, precludes the possibility

¹ CEC Decision, Petition to Amend, El Segundo Power Redevelopment Project (00-AFC-14C), Condition AQ-27

that the Project would contribute significantly to the cumulative regional nitrogen deposition rates. Applicant objects to Data Requests 57 through 60 because responses to such Data Requests would not serve any apparent purpose in reaching the conclusion that the Project would not result in significant impacts related to nitrogen deposition.

Specific Objections

DR-57 This request seeks quantitative analysis of the existing baseline total nitrogen deposition rate “in the vicinity of the modified ESEC,” in kilograms per hectare per year (k/ha/yr). In performing its analysis, Applicant is directed to use the nitrogen thresholds for all significantly affected vegetation communities referenced in two (2) Commission reports identified in this Data Request. Using these “thresholds”, Applicant is directed to extend the boundaries of the baseline—and thereby define the “vicinity”—to subsume all vegetation communities significantly affected by nitrogen deposition in the region surrounding the Project site. Applicant objects to Data Request 57 because this Data Request seeks unnecessary information that is problematic and burdensome to produce, and exceeds what is required to assess the project’s potential for significant impacts and compliance with LORS. As previously noted, the Project is surrounded by many industrial and transportation activities that contribute to the region’s nitrogen deposition rates. With the exception of two (2) El Segundo Blue Butterfly preserves, which are located within a tank farm at the Chevron Refinery and beneath active runways at LAX, native vegetation is lacking within a 1.5-mile radius of the ESEC site. Were Applicant to circumscribe a vicinity based exclusively on whether it contained vulnerable vegetation communities using the thresholds defined in the two (2) Commission reports, Applicant would need to map an unnecessarily large area in order to provide the requested baseline information. In addition, any “vicinity” defined in this manner could not and would not reasonably or meaningfully relate to the modified ESEC, and would only arbitrarily relate to the Project or any nitrogen deposition impacts it might potentially cause. For the reasons stated above, impacts on vegetation and wildlife associated with air emissions and subsequent ground deposition from the modified ESEC are expected to be less than significant, and the conduct of nitrogen deposition analyses, without clear significance criteria, would not produce any meaningful results.

DR-58 This request seeks a model (AERMOD or equivalent) to analyze the impacts on designated critical habitat for western snowy plover and sensitive vegetation communities due to total nitrogen deposition from operation of the modified ESEC. Applicant objects to this Data Request for the reasons stated in the General Objection and in the objection to Data Request 57 above. In addition, the 2000 ESPR AFC determined that the modified ESEC facility’s potential impact on the El Segundo Blue Butterfly, one of two (2) then-potentially affected species, would be less than significant as the ESEC site is already in an industrialized setting and wildlife species in the area are adapted to the existing industrial uses. (2000 ESPR AFC §5.6 and Figure 5.6-10.) Inasmuch as (a) nitrogen deposition rates in the general area of ESEC are decreasing, (b) the Project will further reduce ESEC’s contribution to those rates, and (c) native vegetation is generally lacking within a 1.5-mile radius of the ESEC site, the Project is expected to have a less-than-significant impact on existing local nitrogen deposition rates, and, “will not result in new impacts to biological resources beyond those identified in the CEC’s amended license for 00-AFC-14C.” (PTA, pages 3-59 to 3-63.) Therefore, the conduct of

nitrogen deposition analyses using AERMOD (or an equivalent model), without clear significance criteria, would not produce meaningful results.

DR-59 This request seeks a graphical depiction (isopleth map over USGS 7.5-minute maps) of the modified ESEC project's direct nitrogen deposition rates. Applicant objects to Data Request 59 for the same reasons it objects to Data Request 58 above. Moreover, in an attempt to estimate nitrogen deposition levels directly attributable to the ESEC facility in the 2000 ESPR AFC, Applicant modeled the unlikely scenario that the necessary photochemical reactions for nitrogen deposition would occur within or very close to the ESEC stack. (2000 ESPR AFC, Figure 5.6-10.) This analysis indicated that in this very conservative scenario, the maximum ESEC-generated nitrogen deposition levels adjacent to the facility would be 4.47 kg/hr/yr, and would reduce to undetectable levels within one thousand (1,000) feet of their source. In fact, the necessary photochemical reactions to produce the modeled results would take hours to occur within the atmosphere, by which time the plume would have significantly dispersed. (2000, ESPR AFC, page 5.6-30.) Similar worst-case scenario modeling was performed for the PTA, which showed that nitrogen emissions from the proposed new units will not cause or contribute to violations of any state or federal air quality standards. (PTA § 3.1.4, page 3-39.)

DR-60 This request seeks a comprehensive cumulative impact analysis of the nitrogen deposition caused by the modified ESEC project in relation to other reasonably foreseeable projects, including a graphical depiction (isopleth map over USGS 7.5-minute maps) of the nitrogen deposition values. Applicant objects to Data Request 60 for the reasons set forth in the General Objection above. Furthermore, the reduction in NOx emissions at the ESEC facility due to the Project, together with the continuing reduction in NOx emissions throughout the South Coast Air Basin, precludes the possibility that the Project's cumulative impact in relation to other foreseeable local projects would contribute significantly to local nitrogen deposition rates.

Notwithstanding the above objections and the need for an extension of time to respond to Data Request 87, Applicant will respond to the best of its ability to the Commission Staff's remaining Data Requests on or before September 12, 2013.

Very truly yours,



John A. McKinsey

JAM:awph

DECLARATION OF SERVICE

I, Dee Hutchinson, declare that on September 3, 2013, I served and filed copies of Applicant's Objections to Certain Data Requests in Set One (#1-83) and Request for Extension to Submit Data Response 87 Contained in Set 2 (#84-87) dated September 3, 2013. The most recent Proof of Service List, which I copied from the web page for this project at: <http://www.energy.ca.gov>, is attached to this Declaration.

(Check one)

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: September, 3, 2013


Dee Hutchinson

Proof of Service List

Docket: 00-AFC-14C

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