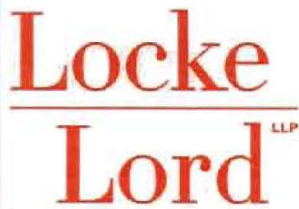


## DOCKETED

<b>Docket Number:</b>	00-AFC-14C
<b>Project Title:</b>	El Segundo Power Redevelopment Project Compliance
<b>TN #:</b>	200470
<b>Document Title:</b>	El Segundo Application for Confidential Designation of Air Quality Data Equations, Formulas and Calculations
<b>Description:</b>	5 Discs Received of Confidential Data. To large to load files.
<b>Filer:</b>	Tiffani Winter
<b>Organization:</b>	Locke Lord, LLP
<b>Submitter Role:</b>	Applicant's Representative
<b>Submission Date:</b>	9/13/2013 11:54:34 AM
<b>Docketed Date:</b>	9/12/2013



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September 12, 2013

VIA E-FILING (W/OUT ATTACHMENTS) AND HAND-DELIVERY

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)  
Application for Confidential Designation of Air Quality Data Equations, Formulas  
and Calculations

Dear Committee Members:

El Segundo Energy Center LLC ("**ESEC LLC**" or "**Applicant**") submits this Application for Designation of Confidential Records ("**Application**") with respect to the attached air quality data spreadsheet (Attachment A) (the "**Air Quality Spreadsheet**"), including without limitation, all of the proprietary equations, formulas and calculations contained therein (collectively, "**Formulas**"). ESEC LLC is submitting this Application in response to the Commission staff's Data Request No. 13 (the "**DR Response**") for ESEC LLC's Petition to Amend (the "**Petition**") the El Segundo Energy Center project (00-AFC-014C) (the "**Project**"). ESEC LLC's Petition and the DR Response address Air Quality in detail.

Through this letter, ESEC LLC requests confidential designation of the Air Quality Spreadsheet under Title 20, California Code of Regulations, section 2505. In addition, ESEC LLC understands that, pursuant to Title 20, California Code of Regulations sections 2505(a)(2) and (a)(3)(B), the attached information will not be publicly disclosed while this Application for Confidential Designation, or any appeal of the Commission's determination regarding this Application, remains pending.

ESEC LLC provides the following information in support of its Application:

(a) *Description/Separation of the Confidential Records.*

The Air Quality Spreadsheet, which is marked "Confidential," is the subject of this Application and pertains to air quality in and around the Project area, and which might be impacted by the Project. This Air Quality Spreadsheet includes proprietary Formulas used to produce the air quality data and analysis submitted by ESEC LLC in Appendices 3.1A, 3.1B, 3.1D, 3.1E, and 3.1H of the PTA and in the DR Response.

(b) *Specific Indication of Those Parts of the Record to be Kept Confidential.*

ESEC LLC requests that the Commission designate the proprietary Formulas in the Air Quality Spreadsheet as confidential in their entirety. However, the results of the Formulas contained in the Air Quality Spreadsheet are included in the PTA as Appendices 3.1A, 3.1B, 3.1D, 3.1E, and 3.1H and are not subject to confidential treatment.

(c) *The Length of Time the Record Should be Kept Confidential.*

The Air Quality Spreadsheet attached as Attachment A hereto should be kept confidential permanently. The Formulas contained therein consist of confidential trade secrets, as they have use beyond the Project and have wide application. It is anticipated that these proprietary Formulas will continue to have value as long as regulators require air emission data to be produced. Accordingly, public disclosure of these proprietary Formulas could detrimentally impact the competitive advantage of Applicant's consultant, Sierra Research, across a wide range of projects.

(d) *Provisions of Law Allowing the Commission to Keep the Documentation Confidential: As Trade Secrets, the Equations, Formulas and Calculations are Protected from Public Disclosure; Economic Competitive Advantage would be Lost If Such Formulas were Publicly Disclosed; and If Publicly Disclosed, This Formulas Would Be Easily Acquired by Members of the Public, Including Competitors and Potential Clients.*

The Commission may designate a record as confidential, and require that it not be publicly disclosed, if the Public Records Act provides for that record to be treated as confidential, and the party giving the Commission custody of such record provides certain information about that record. (20 CCR §2505(a)(1).) The Air Quality Spreadsheet in Attachment A contains Formulas related to air emissions that constitute trade secrets protected from public disclosure under the California Public Records Act. (Govt. Code §§6254.7(a) and (d).)

The Formulas have independent economic value, as Applicant's consultant, Sierra Research ("**Consultant**"), has expended substantial time and resources in developing the Formulas, and Consultant uses these Formulas to fabricate or produce the air quality data and analysis Consultant provides to its clients. Were potential clients of Consultant allowed access

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to this information, those parties would derive economic value from such disclosure as they could obtain the benefit of Consultant's services without compensating Consultant for those services. Disclosure of these Formulas to Consultant's competitors would give those competitors a business advantage over Consultant because those competitors could sell data and analysis derived from those Formulas without investing the time and resources it cost Consultant to develop the Formulas.

(e) *Aggregation and Masking of the Confidential Formulas.*


The Formulas cannot be masked or aggregated without disclosing the Formulas or rendering them useless. Applicant has previously provided the Commission with documents containing the results of calculations performed using the Formulas. These documents were provided in Portable Document Format to protect the confidentiality of the proprietary Formulas underlying the data in those documents.

(f) *The Submitted Formulas Are Presently Confidential.*

Applicant has not disclosed or released the Air Quality Spreadsheet or its Formulas to any member of the public. Consultant has not disclosed the Air Quality Spreadsheet or the Formulas therein to anyone other than its employees, affiliate employees, consultants, and attorneys assisting Consultant and ESEC LLC with efforts related to the Petition. Furthermore, Consultant has not released any of the information contained in Attachment A to any member of the general public and has prohibited its employees, affiliate employees, consultants and attorneys from releasing to the public any portion of the Formulas in Attachment A at any time.

I certify under penalty of perjury that the information contained in this Application is true, correct, and complete to the best of my knowledge. Consultant has authorized Applicant to make the above certification on Consultant's behalf. As an attorney for Applicant, I am authorized to make the above certification and to submit this Application on behalf of ESEC LLC.

Locke Lord LLP

By:   
\_\_\_\_\_  
John A. McKinsey  
Attorneys for El Segundo Energy Center LLC

JAM:awph

Enclosure

**DECLARATION OF SERVICE**

I, Dee Hutchinson, declare that on September 12, 2013, I served and filed copies of the Application for Confidential Designation of Air Quality Data Equations, Formulas and Calculations dated September 12, 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)**

**For service to all other parties and filing with the Docket Unit at the Energy Commission:**

I successfully uploaded the document to the Energy Commission's e-filing system and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.] **or**

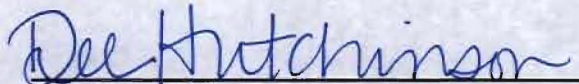
I e-mailed the document to [docket@energy.ca.gov](mailto:docket@energy.ca.gov) and I personally delivered the document or deposited it in the US mail with first class postage to those persons for whom a physical mailing address but no e-mail address is shown on the attached Proof of Service List. [The e-filing system will serve the other parties and Committee via e-mail when the document is approved for filing.] **or**

Instead of e-filing or e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the attached Proof of Service List for whom a mailing address is given and to the  
California Energy Commission – Docket Unit  
Attn: Docket No. \_\_\_\_\_  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512

[The e-filing system will serve an additional electronic copy on the other parties and Committee via e-mail when the paper document or CD is received, scanned, uploaded, and approved for filing. The electronic copy stored in the e-filing system is the official copy of the document.]

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 12, 2013

  
Dee Hutchinson

**Proof of Service List**

Docket: 00-AFC-14C

Project Title: El Segundo Power Redevelopment Project Compliance

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