<table>
<thead>
<tr>
<th><strong>DOCKETED</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Docket Number:</strong> 00-AFC-14C</td>
</tr>
<tr>
<td><strong>Project Title:</strong> El Segundo Power Redevelopment Project Compliance</td>
</tr>
<tr>
<td><strong>TN #:</strong> 200471</td>
</tr>
<tr>
<td><strong>Document Title:</strong> El Segundo Application for Confidential Designation of Cultural Resources Records</td>
</tr>
<tr>
<td><strong>Description:</strong> 5 CD's received. Too large to upload.</td>
</tr>
<tr>
<td><strong>Filer:</strong> Tiffani Winter</td>
</tr>
<tr>
<td><strong>Organization:</strong> Locke Lord, LLP</td>
</tr>
<tr>
<td><strong>Submitter Role:</strong> Applicant's Representative</td>
</tr>
<tr>
<td><strong>Submission Date:</strong> 9/13/2013 12:14:03 PM</td>
</tr>
<tr>
<td><strong>Docketed Date:</strong> 9/12/2013</td>
</tr>
</tbody>
</table>
September 12, 2013

VIA E-FILING (W/OFF 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 Cultural Resources Records

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 information pertaining to Cultural Resources (Attachment A) (the "Confidential Information"). ESEC LLC is submitting this Application in response to the Commission's Data Requests Nos. 68 - 82 (the "DR Response") for ESEC LLC's Petition to Amend (the "Petition") the El Segundo Energy Center ("ESEC") project (00-AFC-014C) (the "Project"). ESEC LLC's Petition and the DR Response address Cultural Resources in detail.

ESEC LLC hereby requests confidential designation of the attached Confidential Information under Title 20, California Code of Regulations, section 2505. 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.

Attachment A, which is marked "Confidential," is the subject of this Application and pertains to cultural resources in and around the Project area, and which might be impacted by

SAC 441638v.3
the Project. This material includes information regarding cultural resources field surveys, literature searches, maps of resources, and results of construction monitoring.

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

Applicant requests that the Commission designate the attached record as confidential in its entirety. A summary of the cultural resources in the Project area and an analysis of the potential impacts to those resources are presented in Section 3.3 of the Petition and in non-confidential portions of the DR Response.

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

The Confidential Information in Attachment A should be kept confidential permanently. The information contained therein assists in identifying potential locations of culturally sensitive resources in the Project area. Consequently, any disclosure of this information could heighten the risk of unauthorized excavation of such resources, and/or unauthorized removal of the same from locations of potential resources referenced in the report. This concern would still exist with respect to the general Project location, even after the conclusion of this amendment procedure and construction of approved modifications to the ESEC facility.

(d) **Provisions of Law Allowing the Commission to Keep the Record Confidential: Disclosure of the Information is Against the Public Interest.**

As previously noted, the Confidential Information assists in identifying the potential significance of cultural resources that might be present in and around the proposed Project site and the ESEC facility in general. The Commission may designate a record as confidential and require that it not be publicly disclosed if the California Public Records Act provides for that record to be treated as confidential, and if the party giving the Commission custody of such record provides certain information about that record. (20 CCR §2505(a)(1).) The Public Records Act protects the confidentiality of any records that are exempted from disclosure under provisions of the California Evidence Code relating to privilege, including Evidence Code section 1040. (Govt. Code §6254(k).) Evidence Code section 1040 sets forth a privilege that entitles public entities to refuse to disclose official information acquired in confidence by a public employee in the course of his or her duties, when disclosure of the information is against the public interest because there is a need to preserve the confidentiality of the information that outweighs the need for disclosure in the interest of justice. This privilege applies here to protect the Confidential Information from disclosure.

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

Masking of the Confidential Information is not necessary because, as discussed above, the potential cultural resources, the review undertaken, and the mitigation measures identified are contained within Section 3.3 of the Petition and in the Data Responses to Data Requests 68 through 82.
(f) The Submitted Record Is Presently Confidential.

Consultant has not disclosed the cultural resources information to anyone other than its employees, affiliate employees, consultants, and attorneys assisting Applicant with efforts related to the Petition. Furthermore, Applicant 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 such information 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. As an attorney for ESEC LLC, 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 Cultural Resources Records 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:

X 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 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

SAC 441638v.3
Proof of Service List
Docket: 00-AFC-14C
Project Title: EI Segundo Power Redevelopment Project Compliance

Applicant
George L. Piantka, PE
EI Segundo Energy Center, LLC
5790 Fleet Street, Suite 200
Carlsbad, CA 92008
giorge.piantka@nrgenergy.com

Applicant’s Representative
John A. McKinsey
Locke Lord, LLP
500 Capitol Mall, Suite 1800
Sacramento, CA 95814
jmckinsey@lockelord.com

Commission Staff
Craig Hoffman, Project Manager
California Energy Commission
Siting, Transmission &
Environmental Protection Division,
1516 Ninth Street, MS-15
Sacramento, CA 95814
craig.hoffman@energy.ca.gov

Committee
Eileen Allen, Commissioners’
Technical Adviser for Facility Siting
California Energy Commission
Sacramento, CA

Jennifer Nelson, Adviser to
Commissioner Douglas
California Energy Commission
Sacramento, CA

Lezlie Kimura Szeto, Adviser to
Commissioner Scott
California Energy Commission
Sacramento, CA

Public Adviser
Alana Mathews, Public Adviser
California Energy Commission
Public Advisers Office, 1516 Ninth Street, MS-12
Sacramento, CA 95814
publicadviser@energy.ca.gov

Public Agency
California ISO
Folsom, CA
e-recipient@caiso.com

Robin Mayer, Staff Counsel
California Energy Commission
Office of the Chief Counsel,
1516 Ninth Street, MS-14
Sacramento, CA 95814
Robin.Mayer@energy.ca.gov

JANE A. SCOTT, Associate
Member, Commissioner
California Energy Commission
Sacramento, CA

KAREN DOUGLAS, Presiding
Member, Commissioner
California Energy Commission
Sacramento, CA

Galen Lemei, Adviser to
Commissioner Douglas
California Energy Commission
Sacramento, CA
efilingPOSarchive@energy.ca.gov

Jim Bartridge, Adviser to
Commissioner Scott
California Energy Commission
Sacramento, CA

Paul Kramer, Chief Hearing Officer
California Energy Commission
Sacramento, CA

Kimberly Christensen, AICP,
Planning Manager
City of EI Segundo
Planning Division, 350 Main Street
EI Segundo, CA 90245
kchristensen@elsegundo.org

Laurie B. Jester
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
ljester@ci.manhattan-beach.ca.us

Sacramento, CA 95814