

DOCKETED

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December 8, 2014

VIA E-FILING

Camille Remy-Obad
Compliance Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: El Segundo Energy Center Petition to Amend (00-AFC-14C)
Project Owner's FSA Comments

Dear Ms. Remy-Obad:

El Segundo Energy Center LLC ("ESEC LLC" or "Project Owner") the Project Owner of the El Segundo Energy Center (00-AFC-14C) (the "Project" or "ESEC") submits these comments regarding the Final Staff Assessment Part A ("FSA") for the ESEC Petition to Amend for the proposed units 9-12.

Specific proposed changes relative to the FSA are shown with additions in **Bold Underline** and deletions in **~~strikethrough~~**.

Compliance Conditions and Compliance Monitoring Plan

1. PDF Page 7-6, Chief Building Official Delegation and Agency Cooperation, Second Paragraph: This paragraph contains a requirement to delegate to the CBO responsibility for "facilitating compliance with all environmental conditions of certification" without specifically identifying what the CBO's role would be. If the CBO is to be involved in the Project Owner's compliance with environmental permit conditions, the CBO's role should be addressed in each applicable permit condition, similar to the Facility Design and Transmission System Engineering Conditions. The additional task of the CBO facilitating compliance of the environmental conditions, etc. provides the CBO with an unlimited scope, unknown to the Project Owner. Given this, the section should be revised as follows:

CHIEF BUILDING OFFICIAL DELEGATION AND AGENCY COOPERATION

Under the California Building Standards Code, while monitoring project construction and operation, staff acts as, and has the authority of, the Chief Building Official (CBO). Staff may delegate some CBO responsibility to either an independent third-party contractor or a local building official. However, staff retains CBO authority when selecting a delegate

CBO, including the interpretation and enforcement of state and local codes and the use of discretion, as necessary, in implementing the various codes and standards.

~~“The delegate CBO will also be responsible to facilitate compliance with all environmental conditions of certification, including cultural resources, and the implementation of all appropriate codes and standards and Energy Commission requirements. The CBO will conduct on-site (including linear facilities) reviews and inspections at intervals necessary to fulfill those responsibilities. The project owner will pay all delegate CBO fees necessary to cover the costs of these reviews and inspections.”~~

2. PDF Page 7-12, Condition COM-2, Item #3: The project owner is already required to include the AFC and amendment petitions in the compliance file. These items include environmental impact and survey documentation. Given this, item 3, which requires that “all site related environmental impact and survey documentation” be included in the compliance file should be deleted since the information will already be available.

~~3. “All site-related environmental impact and survey documentation;”~~

3. PDF Page 7- 27, Condition COM-14, First Paragraph, First Sentence: The following addition should be included in the first sentence of the condition to ensure maintenance activities and outages are not included in this condition. The first paragraph should be revised as follows:

“COM-14: Non-Operation. **With the exception of maintenance activities and outages,** ~~if~~ if the facility ceases operation temporarily, either planned or unplanned, for longer than one (1) week (or other CPM- approved date), but less than three (3) months (or other CPM-approved date), the project owner shall notify the CPM, interested agencies, and nearby property owners. Notice of planned non-operation shall be given at least two (2) weeks prior to the scheduled date. Notice of unplanned non-operation shall be provided no later than one (1) week after non- operation begins.”

4. PDF Page 7-28, Com-15, Section A Provisional Closure Plan and Estimate of Permanent Closure Costs, First Paragraph, Last Sentence: – The last sentence in the first paragraph requires that the plan “reflect the use of an independent third party to carry out the permanent closure.” However, in the Commission Decision for the Huntington Beach Energy Project, the same requirement reads, “The Provisional Closure Plan and Cost Estimate shall consider applicable final closure plan requirements, and reflect that permanent closure will be carried out by qualified personnel.” The Project Owner requests that the language be revised consistent with the language in the Huntington Beach Energy Project Commission Decision. The proposed revision is as follows:

A. Provisional Closure Plan and Estimate of Permanent Closure Costs

To assure satisfactory long-term site maintenance and adequate closure for “the whole of a project,” the project owner shall submit a Provisional Closure Plan and Cost Estimate for CPM review and approval within sixty (60) days after the start of commercial operation. The Provisional Closure Plan and Cost Estimate shall consider applicable final closure plan requirements, and reflect **that permanent closure will be carried out by qualified personnel** ~~the use of an independent third party to carry out the permanent closure.~~

5. PDF Page 7-29, Condition COM-15, Item A Provisional Closure Plan and Estimate of Permanent Closure Costs, Last Paragraph: In addition, it is unclear why a closure plan must be updated every 5 years during operation. A final plan will be prepared prior to closure, which will address most current regulations and LORS. In addition, similar language was not included in Condition COM-15 for the recently approved Huntington Beach Energy Project. The Project Owner requests that the paragraph below be deleted.

~~The project owner shall include an updated Provisional Closure Plan and Cost Estimate in every fifth-year ACR for CPM review and approval. Each updated Provisional Closure Plan and Cost Estimate shall reflect the most current regulatory standards, best management practices, and applicable LORS.~~

6. PDF Page 7-29, Condition COM-15, Item B Final Closure Plan and Cost Estimate: Item B, Final Closure Plan and Cost Estimate, First Paragraph, First Sentence: Much of the information requested would not be available three years prior to initiating a permanent facility closure. The Project Owner suggests that the Condition be revised to enable an alternative timeframe to be determined by the Compliance Project Manager.

B. Final Closure Plan and Cost Estimate

At least three (3) years prior to initiating a permanent facility closure or other CPM-approved date, the project owner shall submit for Energy Commission review and approval..."

7. PDF Page 4.3-69, Condition CUL-6: Given the disturbed nature of the ESEC site, the Project Owner requests that Condition CUL-6 in the FSA be deleted and replaced with Condition CUL-6 from the Huntington Beach Energy Project Commission Decision. As with the Huntington Beach Energy Project, the ESEC site is disturbed. The CUL-6 language for the Huntington Beach Energy Project from the Commission Decision requires monitoring once a CRHR eligible discovery has been made. The same approach should be used for ESEC. The Huntington Beach Energy Project Condition CUL-6 language is included in Attachment A.

8. PDF Page 4.2-66, Condition BIO-7: The Project Owner suggests that the Condition be revised as follows:

"The Designated Biologist shall perform or direct site personnel how to perform the following during any site mobilization, ground disturbance, demolition, grading, and facility demolition activities and construction, operation, and closure activities associated with the El Segundo Power Facility Modification (ESPFM) Project:

1. Advise the project owner's Construction/Operation Manager, supervising construction and demolition operations engineer on the implementation of the biological resources Conditions of Certification;

2. Be available to supervise or conduct mitigation, monitoring, and other biological resources compliance efforts associated with the ESPFM Project, particularly in areas requiring avoidance or containing sensitive biological resources, ~~such as special status species or their habitat;~~

3. ~~Clearly mark sensitive biological resource areas and~~ Inspect these areas the Project site at appropriate intervals for compliance with regulatory terms and conditions;

4. Periodically inspect areas with high vehicle activity (e.g., **construction/demolition** parking lots) for animals in harm's way;
5. Notify the project owner and the CPM of any non-compliance with any biological resources Condition of Certification; and
6. Respond directly to inquiries of the CPM regarding biological resource issues.

Verification: The Designated Biologist shall maintain written records of the tasks described above, and summaries of these records shall be submitted in the Monthly Compliance Reports. ~~If actions may affect biological resources during operation a Designated Biologist shall be available for monitoring and reporting.~~ As necessary during the Project operation, the Designated Biologist shall submit record summaries in the **Monthly** ~~Annual-Compliance Report.~~"

9. PDF Page 4.2-67, Condition BIO-8: The Project Owner is requesting the flexibility of either the Designated Biologist or the Biological Monitor to assist the Project Owner. The Project Owner suggests that the Condition be revised as follows:

"BIO-8: The project owner's Construction/~~Operation~~ Manager shall act on the advice of the Designated Biologist ~~and~~ **or** Biological Monitor(s) to ensure conformance with the biological resources Conditions of Certification.

If required by the Designated Biologist ~~and~~ **or** Biological Monitor(s), the project owner's Construction/~~Operation~~ Manager shall halt ~~all-site, mobilization, demolition, ground disturbance, grading, and construction, and operation~~ activities in areas specified by the Designated Biologist.

The Designated Biologist **or Biological Monitor(s) shall:**

1. Require a halt to all activities in any area when determined that there would be adverse impact to biological resources if the activities continued;
2. Inform the project owner and the Construction/~~Operation~~ Manager when to resume activities; and
3. Notify the CPM if there is a halt of any activities due to conflicts with biological resources, and advise the CPM of any corrective actions that have been taken, or will be instituted, as a result of the halt.

If the Designated Biologist is unavailable for direct consultation, the Biological Monitor shall act on behalf of the Designated Biologist.

Verification: The project owner shall ensure that the Designated Biologist **or Biological Monitor(s)** notifies the CPM immediately (and no later than the following morning of the incident, or Monday morning in the case of a weekend) of any non-compliance or a halt of any site mobilization, ground disturbance, grading, **and** construction,~~and operation~~ activities. The project owner shall notify the CPM of the circumstances and actions being taken to resolve the problem.

Whenever corrective action is taken by the project owner, a determination of success or failure will be made by the CPM within five working days after receipt of notice that corrective action is completed, or the project owner will be notified by the CPM that coordination with other agencies will require additional time before a determination can be made."

10. PDF Page 4.2-68, Condition BIO-9: The Condition has been revised slightly as follows. Item #1 has been revised to reflect that all conditions of certification be included in the BRMIMP. Item #4 has been revised to address only construction and demolition. Item #7 has been revised to reflect the need for maps to be provided only as applicable. Item #11 has been removed as closure will be addressed in the site closure plan required as item COMPLIANCE-15. Item #12 has been revised to correct a small error. Item #15 has been revised to remove the specific plants to be used for landscaping as this is addressed by landscaping requirements found in Visual Resources. Proposed language is consistent with the COCs for Visual Resources. Verification language has also been revised slightly to correct a small error. The Project Owner suggests that the Condition be revised as follows:

“BIO-9: The project owner shall submit to the CPM for review and approval, a copy of the final Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP) and, once approved, shall implement the measures identified in the plan.

The BRMIMP shall include:

1. All ~~new~~ Biological Resource conditions of certification included in the Energy Commission’s Final Decision as amended;
2. All biological resources mitigation, monitoring, and compliance measures proposed and agreed to by the project owner;
3. All required mitigation measures for each sensitive biological resource;
4. A list and a map of locations of all sensitive biological resources to be impacted, avoided, or mitigated by project construction **and/or demolition as applicable** ~~and operation~~;
5. A list of all terms and conditions set forth by the USACE permits and necessary state LARWQCB certifications, should these become necessary throughout the life of the project;
6. Detailed descriptions of all measures that will be implemented to avoid and/or minimize impacts to sensitive species and reduce habitat disturbance;
7. All locations, on a map of suitable scale, of areas requiring temporary protection and avoidance during construction and demolition **as applicable**;
8. Duration for each type of monitoring and a description of monitoring methodologies and frequency;
9. Performance standards to be used to help decide if/when proposed mitigation and conditions are not successful;
10. All performance standards and remedial measures to be implemented if performance standards are not met;
11. ~~A discussion of biological resource-related facility closure measures;~~
12. **11.** A process for proposing plan modifications to the CPM and appropriate agencies for review and approval;

~~13.~~ **12.** A copy of any USFWS Biological Opinion or NMFS consultation, and incorporation of all terms and conditions into the final BRMIMP, should a biological opinion become necessary any time throughout the life of the project;

~~14.~~ **13.** Protocols for dealing with wildlife that gain access to project features whereby their ~~well-being~~ **wellbeing** could be at risk; and

~~15.~~ **14.** ~~Vegetation restoration that provides for planting seacliff buckwheat (*Eriogonum parviflorum*), eradication of ice plant (*Caprobrotus chilensis*), and is coordinated with Visual Resources landscaping requirements.~~ **Vegetation restoration shall be coordinated with Visual Resources landscaping requirements.**

16. **15.** Aerial photographs, at a 1:2,400 scale or alternative CPM-approved scale proposed by project owner, of all areas to be disturbed during project construction activities; include one set prior to any site or related facilities mobilization disturbance and one set subsequent to completion of project construction.

~~17.~~ **16.** A requirement to submit any sightings of any special-status species that are observed on or in proximity to the project site during monitoring or site visits, or during project surveys, to the California Natural Diversity Database (CNDDDB) per CDFW requirements.

Verification: At least 30 days prior to start of any site mobilization activities, the project owner shall provide the CPM with the final version of the BRMIMP for this project, and the CPM will determine the plans acceptability.

If there are any permits that have not yet been received when the BRMIMP is first submitted, these permits shall be submitted to the CPM, within 5 days of their receipt, and the BRMIMP shall be revised or supplemented to reflect the permit condition within 10 days of their receipt by the project owner. Ten days prior to site (and related facilities) mobilization, the revised BRMIMP shall be resubmitted to the CPM.

The project owner shall notify the CPM five (5) working days before implementing any CPM approved modifications to the BRMIMP.

Implementation of BRMIMP measures shall be reported in the monthly compliance reports by the ~~designated biologist~~ **Designated Biologist** (i.e., survey results, construction activities that were monitored, species observed, vegetation restoration etc).

Within 30 days after completion of project construction, the project owner shall provide to the CPM for review and approval, a written construction closure report identifying which items of the BRMIMP have been completed, a summary of all modifications to mitigation measures made during the project's demolition, site mobilization, ground disturbance, grading, and construction phases, and which mitigation and monitoring plan items are still outstanding."

11. PDF Page 4.2-71, Condition BIO-12, Verification language: Condition has been revised to reflect the timing of when the Federal Biological Opinion would be needed and is now consistent with BIO-11 and BIO-13 timing. The Project Owner suggests that the Condition be revised as follows:

“Verification: No less than 30 days prior to the start of any site mobilization activities **related to decommissioning the once-through cooling facilities for Units 3 and 4 and related in-water forebay work**, the project owner must provide the CPM with a copy of any USFWS and/or NMFS, and the U.S. Environmental Protection Agency (USEPA) and/or U.S. Army Corps of Engineers (USACE) recommendations. All terms and conditions resulting from the consultation will be incorporated into the BRMIMP and implemented.”

12. PDF Page 4.2-71, Condition BIO-14: Condition has been revised to remove new language requiring a “description funding mechanism”. It is unclear as to what this requirement is and what should be provided. The Project Owner suggests that the Condition be revised as follows:

“BIO-14: The project owner will incorporate into the planned permanent or unexpected permanent closure plan measures, ~~including a description of funding mechanism(s)~~ that address the local biological resources. The biological resource facility closure measures will also be incorporated into the project Biological Resources Mitigation Implementation and Monitoring Plan.

Verification: At least 12 months (or a mutually agreed upon time) prior to the commencement of closure activities, the project owner shall address all biological resource-related issues associated with facility closure in a Biological Resources Element. The Biological Resources Element will be incorporated into the Facility Closure Plan, ~~including a description of funding mechanisms(s)~~ and include a complete discussion of the local biological resources and proposed facility closure mitigation measures.”

13. PDF Page 4.2-72, Condition BIO-16: The Project Owner suggests that the Condition be revised as follows:

“BIO-16: The project owner shall implement the following measures during site mobilization, demolition, **and** construction, ~~operation, and closure~~ to manage their project site and related facilities in a manner to avoid or minimize impacts to biological resources:”

14. PDF Page 4.2-73, Condition BIO-16, Item #5: Condition has been revised to address only special status species as identified in the first sentence of Item #5. The requirement to report specifics of all species has no basis in applicable laws and regulations. The Project Owner suggests that the Condition be revised as follows:

“5. Report all inadvertent deaths of special-status species to the appropriate project representative, including road kill. **Regarding special-status species, the species** Species name, physical characteristics of the animal (sex, age class, length, weight), and other pertinent information shall be noted and reported in the monthly compliance reports. For special-status species, the Designated Biologist or Biological Monitor shall contact CDFW and/or USFWS and the CPM within 1 working day of receipt of the carcass for guidance on disposal or storage of the carcass. Injured animals shall be reported to CDFW and/or USFWS and the CPM, and the project owner shall follow instructions that are provided by CDFW or USFWS. During construction, injured or dead animals detected by personnel in the project area shall be reported immediately to a Biological Monitor or Designated Biologist, who shall remove

the carcass or injured animal promptly ensuring safety to both site operation and construction personnel and safety to an injured animal. During operations, the Project Environmental Compliance Monitor shall be notified."

15. PDF Page 4.12-28, Condition VIS-2: Because ESEC construction has been completed and VIS-2 implemented, Project Owner believes that some changes are needed to VIS-2 to address issues that have arisen with tree and plant survival and other lessons learned. Specifically, Project Owner believes that the Compliance Project Manager should be granted authority to allow substitution of species and even types of planting when the Project Owner so requests. Project Owner believes an additional section should be added that specifies this process. The Project Owner suggests that the Condition be revised as follows:

"VIS-2 Perimeter screening and on-site landscaping. The project owner shall ~~prepare~~ continue with implementation of the ~~and implement an approved~~ perimeter screening and on-site landscape plan developed and approved in compliance with the Conditions of Certification applied to the 2010 Decision, as modified. Modifications shall include those recommended by the compliance Project Manager (CPM) in consultation with the staff of the Coastal Commission and the cities of Manhattan Beach and El Segundo pursuant to paragraph 5 below.

1) The project owner shall ensure survival of and effective screening by tree and other landscape plantings and maintain a procedure for monitoring and replacement of all unsuccessful plantings for the life of the project, including monitoring and replacement of pre-existing perimeter landscape plantings.

The project owner shall consult with the CPM to modify the perimeter landscape plan as needed to replace unsuccessful plantings, adjust the plantings on the top of the berm to preserve the views of residences toward the ocean and the Santa Monica Mountains.

2) A chart and key plan showing conformance with City of El Segundo landscape regulations.

3) Soil tests shall be performed on both on-site and imported soil and where landscaping is to take place. Soil shall be amended on the basis of those tests if needed to ensure long-term viability of plantings.

4) Upgrade the condition and appearance of existing chain link fencing along the Braude bike path with green coated fencing.

The project owner shall not implement the plan until the project owner receives written approval of the plan from the CPM.

5. When the Project Owner identifies a problem with the functionality of the approved plans or a specific species survival or compatibility issue under this condition the Project Owner shall submit proposed revised landscaping plans to the CPM and to the cities of Manhattan Beach and El Segundo. The CPM shall allow the cities 45 days to comment on Project Owner's proposal before deciding whether to approve the changes. Where a new species is proposed or where the CPM feels the proposed changes could constitute a substantial change to the visual character of the landscaping, the CPM shall forward the proposal to the staff of the Coastal

Commission and allow the Coastal Commission 60 days to comment before deciding whether to approve the changes. The CPM shall have the authority to approve changes to the landscaping plans under this condition when such changes are necessary to effectively implement the intent of the condition and initial plans.

Verification: At least 120 days prior to the start of construction, the project owner shall submit the perimeter screening and onsite landscape plan to the CPM for review and approval, in consultation with staff of the Coastal Commission and the Cities of El Segundo and Manhattan Beach.

If the CPM notifies the project owner that revisions of the submittal are needed before the CPM will approve the submittal, the project owner shall prepare and submit to the Cities and CPM a revised submittal.

The project owner shall implement the landscape plan within 90 days of CPM approval

The project owner shall notify the CPM within seven days after completing installation of the revisions to the landscape plan that the planting and irrigation system are ready for inspection.

The project owner shall report landscape maintenance activities, including replacement of dead vegetation, for the previous year of operation in the Annual Compliance Report.”

The Project Owner shall submit proposed changes to landscaping plans pursuant to paragraph 5 above, as soon as the need for such a change is identified.

The Project Owner shall begin the implementation of approved changes to landscaping plans pursuant to paragraph 5 above as soon as the CPM approves such changes.

16. PDF Page 4.12-34, Condition VIS-8, Item “e”: Condition has been revised to address safety concerns. The Project Owner suggests that the Condition item “e” be revised as follows:

“e) All construction-related lighting **not needed for safety requirements** shall be completely shielded or screened so as not to be visible to residents of 45th Street in Manhattan Beach. Construction lighting in the tank farm area shall be limited to the hours of 7:30 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. Saturday, except as necessary for safety or security purposes.”

17. PDF Page 4.13-23, Condition WASTE-6: Condition has been revised to combine WASTE-6 and WASTE-9 into one COC. In addition, text has been modified to require delivery and review of RI Workplan to the lead agency. The Project Owner suggests that the Condition be revised as follows:

“WASTE-6: Before demolition of ~~either the fuel oil tanks or the existing generator buildings and any other~~ **structures** building, respectively, the project owner shall prepare a Remedial Investigation Workplan (RI Workplan). This plan shall include a detailed site characterization plan with soil and groundwater sampling and analysis to determine the extent and nature of contamination existing beneath these structures. The RI Workplan shall be provided to the **lead agency**

~~Chatsworth Field Office of the California Department of Toxic Substances Control, the Los Angeles Regional Water Quality Control, and the City of El Segundo Fire Department, and other local agencies, if applicable, for review and timely comment, and to the CEC CPM for review and approval. If contaminated soil or groundwater is found to exist, the project owner shall contact representatives of the above-named agencies for further guidance and possible oversight. In no event shall the project owner proceed with site preparation or construction activities at any location on the site where hazardous waste contamination is found to be present until that location is either remediated or shown to pose an insignificant risk to humans and the environment as demonstrated to the satisfaction of the **lead agency** LARWQCB, DTSC, and the CPM.~~

Verification: At least sixty (60) days prior to commencement of ~~fuel tank or structure~~ **structural** demolition, respectively, the project owner shall provide the RI Workplan to the **lead agency** ~~Chatsworth Field Office of the California Department of Toxic Substances Control, the Los Angeles Regional Water Quality Control Board, the City of El Segundo Fire Department, other agencies, if applicable, and the CEC CPM. Within thirty (30) days of completion of the sampling and analysis and prior to the initiation of any construction activities, the project owner shall provide the results of the sampling and analysis to the **lead agency** Chatsworth Field Office of the California Department of Toxic Substances Control, the Los Angeles Regional Water Quality Control Board, the City of El Segundo Fire Department, other agencies, if applicable, and the CPM for review and guidance on possible remediation.~~

18. PDF Page 4.13-24, Condition WASTE-8: Condition has been modified slightly, as the SCAQMD does not typically review the Asbestos Demolition Notification Form, and instead will accept the form and provide a permit number to the Project Owner. The Project Owner suggests that the Condition be revised as follows:

“WASTE-8: Prior to modification or demolition of existing structures, the project owner shall complete and submit a survey of all Asbestos-Containing Materials (ACM) and Regulated Building Materials (RBM) that contain lead based paint to the El Segundo Fire Department and a South Coast Air Quality Management District Asbestos Demolition Notification Form (SCAQMD Rule 1403) for review and timely comment and to the CPM for approval. **In addition a South Coast Air Quality Management District Asbestos Demolition Notification Form (SCAQMD Rule 1403) shall be provided to SCAQMD and the CPM for their files.**

After receiving approval **on the survey for ACM and RBM**, the project owner shall remove all ACM and RBM from the site prior to demolition.

Verification: no less than sixty (60) days prior to commencement of structure demolition, the project owner shall provide the survey to the El Segundo Fire Department ~~and the South Coast Air Quality Management District~~ for review and timely comment, and to the CPM for review and approval. **In addition, the South Coast Air Quality Management District Asbestos Demolition Notification Form (SCAQMD Rule 1403) shall be provided to SCAQMD for their records,**

and to the CPM for their files. The project owner shall inform the CPM, via the monthly compliance report, of the data **date** when all ACM and RBM were removed from the site.”

19. PDF Page 4.13-24, Condition WASTE-9: Condition has been incorporated into Condition WASTE-6. The project Owner suggests WASTE-9 be deleted in its entirety.

Locke Lord LLP

By: 

John A. McKinsey
Attorneys for El Segundo Energy Center LLC

JAM:dh

ATTACHMENT A

HUNTINGTON BEACH ENERGY PROJECT

CUL-6 UNDISCOVERED CULTURAL RESOURCES

In the event that a CRHR eligible (as determined by the CPM) cultural resource is discovered, at the direction of the CPM, the project owner shall ensure that the CRS or alternate CRS monitors full time all ground disturbances in the area where the CRHR-eligible cultural resources discovery has been made. The level, duration, and spatial extent of monitoring shall be determined by the CPM. In the event that the CRS believes that a current level of monitoring is not appropriate, a letter or email detailing the justification for changing the level of monitoring shall be provided to the CPM for review and approval prior to any change in the level of monitoring.

Full-time archaeological monitoring for the project, if deemed necessary due to the discovery of a CRHR-eligible cultural resource, shall consist of archaeological monitoring of all earth-moving activities in the area(s) of discovery(ies), for as long as the CPM requires.

The project owner shall obtain the services of one or more NAMs to monitor construction-related ground disturbance in areas, **if any**, where Native American artifacts have been discovered. Contact lists of interested Native Americans and guidelines for monitoring shall be obtained from the NAHC. Preference in selecting an NAM shall be given to Native Americans with traditional ties to the area that shall be monitored. If efforts to obtain the services of a qualified NAM are unsuccessful, the project owner shall immediately inform the CPM. The CPM will either identify potential monitors or will allow construction-related ground disturbance to proceed without an NAM.

If monitoring should be needed, as determined by the CPM, due to the discovery of a CRHR-eligible cultural resource, the CRS shall keep a daily log of any monitoring and other cultural resources activities and any instances of non-compliance with the Conditions and/or applicable LORS on forms provided by the CPM. Copies of the daily monitoring logs shall be provided by the CRS to the CPM, if requested by the CPM. From these logs, the CRS shall compile a monthly monitoring summary report to be included in the MCR. If there are no monitoring activities, the summary report shall specify why monitoring has been suspended.

The CRS, at his or her discretion, or at the request of the CPM, may informally discuss cultural resource monitoring and mitigation activities with Energy Commission technical staff.

Cultural resources monitoring activities are the responsibility of the CRS. Any interference with monitoring activities, removal of a monitor from duties assigned by the CRS, or direction to a monitor to relocate monitoring activities by anyone other than the CRS shall be considered non-compliance with these Conditions.

Upon becoming aware of any incidents of non-compliance with the Conditions and/or applicable LORS, the CRS and/or the project owner shall notify the CPM by telephone or e-mail within 24 hours. The CRS shall also recommend corrective action to resolve the problem or achieve compliance with the Conditions. When the issue is resolved, the CRS shall write a report

describing the issue, the resolution of the issue, and the effectiveness of the resolution measures. This report shall be provided in the next MCR for the review of the CPM.

The research design in the CRMMP shall govern the collection, treatment, retention/disposal, and curation of any archaeological materials encountered. The daily monitoring logs shall at a minimum include the following:

- First and last name of the CRM and any accompanying NAM.
- Time in and out.
- Weather. Specify if weather conditions led to work stoppages.
- Work location (project component). Provide specifics—.e.g., power block, landscaping.
- Proximity to site location. Specify if work conducted within 1000 feet of a known cultural resource.
- Work type (machine).
- Work crew (company, operator, foreman).
- Depth of excavation.
- Description of work.
- Stratigraphy.
- Artifacts, listed with the following identifying features:
 - Field artifact #: When recording artifacts in the daily monitoring logs, the CRS shall institute a field numbering system to reduce the likelihood of repeat artifact numbers. A typical numbering system could include a project abbreviation, monitor's initials, and a set of numbers given to that monitor: e.g., HBEP-MB-123.
 - Description.
 - Measurements.
 - Universal Transverse Mercator coordinates.
 - Whether artifacts are likely to be isolates or components of larger resources.
 - Assessment of significance of any finds.
 - Actions taken.
 - Plan for the next work day.

A cover sheet shall be submitted with each day's monitoring logs, and shall at a minimum include the following:

- Count and list of first and last names of all CRMs and of all NAMs for that day.
- General description (in paragraph form) of that day's overall monitoring efforts, including monitor names and locations.
- Any reasons for halting work that day.
- Count and list of all artifacts found that day: include artifact #, location (i.e., grading in Unit X), measurements, UTMs, and very brief description (i.e., historic can, granitic biface, quartzite flake).
- Whether any artifacts were found out of context (i.e., in fill, caisson drilling, flood debris, spoils pile).

If requested by the CPM, copies of the daily monitoring logs and cover sheets shall be provided by email from the CRS to the CPM, as follows:

- Each day's monitoring logs and cover sheet shall be merged into one PDF document
- The PDF title and headings, and emails shall clearly indicate the date of the applicable monitoring logs.
- PDFs for any revised or resubmitted versions shall use the word "revised" in the title.

Daily and/or weekly maps shall be submitted along with the monitoring logs as follows:

- The CRS shall provide daily and/or weekly maps of artifacts at the request of the CPM. A map shall also be provided if artifact locations show complexity, high density, or other unique considerations.
- Maps shall include labeled artifacts, project boundaries, previously recorded sites and isolates, aerial imagery background, and appropriate scales.

The Cultural Resources section of the MCR shall be prepared in coordination with the CRS, and shall include a monthly summary report of cultural resources-related monitoring. The summary shall:

- List the number of CRMs and NAMs on a daily basis, as well as provide monthly monitoring-day totals.
- Give an overview of cultural resource monitoring work for that month, and discuss any issues that arose.
- Describe fulfillment of requirements of each cultural mitigation measure.
- Summarize the confidential appendix to the MCR, without disclosing any specific confidential details.

- Include the artifact concordance table (as discussed under the next bullet point), but with removal of UTMs.
- Contain completed DPR 523A forms for all artifacts recorded or collected in that month shall be submitted as one combined PDF that includes an index and bookmarks. For any artifact without a corresponding DPR form, the CRS shall specify why the DPR form is not applicable or pending (i.e. as part of a larger site update). A concordance table that matches field artifact numbers with the artifact numbers used in the DPR forms shall be included. The sortable table shall contain each artifact's date of collection and UTM numbers, and note if an artifact has been deaccessioned or otherwise does not have a corresponding DPR form. Any post-field log recordation changes to artifact numbers shall also be noted.
- If artifacts from a given site location (in close proximity of each other or an existing site) are collected month after month, and if agreed upon with the CPM, a final updated DPR for the site may be submitted at the completion of monitoring. The monthly concordance table shall note that the DPR form for the included artifacts is pending.

VERIFICATION

1. At least 30 days prior to the start of ground disturbance, the CPM will provide to the CRS an electronic copy of a form to be used as a daily monitoring log.
2. While monitoring is on-going and as required by the CPM, the project owner shall submit each day's monitoring logs and cover sheet merged into one PDF document by email within 24 hours.
3. The CRS and/or project owner shall notify the CPM of any incidents of non-compliance with the Conditions and/or applicable LORS by telephone or email within 24 hours
4. If resources are discovered as outlined in this Condition of Certification, the project owner shall notify all local Native American groups of the discovery of the resource within 48 hours of its discovery. If resources are discovered as outlined in this Condition of Certification, the project owner shall appoint one or more NAMs. Within 15 days of receiving from a local Native American group a request that a NAM be employed, the project owner shall submit a copy of the request and a copy of a response letter to the CPM. The project owner shall include a copy of this Condition of Certification in any response letter.
5. While monitoring is on-going, the project owner shall include in each MCR a copy of the monthly summary of cultural resources related monitoring prepared by the CRS and shall attach any new DPR 523A forms completed for finds treated prescriptively, as specified in the CRMMP.
6. Final updated DPRs with sites (where artifacts are collected month after month) can be submitted at the completion of monitoring, as agreed upon with the CPM.
7. At least 24 hours prior to implementing a proposed change in monitoring level, the project owner shall submit to the CPM, for review and approval, a letter or e-mail detailing the CRS's justification for changing the monitoring level.
8. Within 15 days of receiving them, the project owner shall submit to the CPM copies of any comments or information provided by Native Americans in response to the project owner's transmittals of information.