State of California | California Natural Resources Agency

Memorandum

To: Chair Robert Weisenmiller

Date : January 25, 2013

California Energy Commission
DOCKETED
12-CAI-05
TN # 69283
JAN 25 2013

From : **California Energy Commission**
1516 Ninth Street
Sacramento CA 95814-5512

Robert P. Oglesby
Executive Director

Subject: **STAFF REPORT ON FORMAL COMPLAINT ALLEGING NONCOMPLIANCE WITH CONDITIONS OF CERTIFICATION FOR THE EL SEGUNDO ENERGY CENTER PROJECT (12-CAI-05)**

On November 26, 2012, a formal complaint was filed pursuant to Title 20, California Code of Regulations, section 1237, by Manhattan Beach resident Michael Dolen (complainant) whose residence is located on the Strand in the City of Manhattan Beach, south of the El Segundo Energy Center (ESEC) project. Staff has prepared a report on the complaint pursuant to Title 20 of the California Code of Regulations, section 1237(b), and copies of the report and complaint are enclosed for your information and review.

The November 26, 2012 complaint raises the issues of visual impacts stemming from alleged noncompliance with Visual Resource Conditions of Certification. The complaint alleges the following facts:

1. From the Application for Certification through present, NRG used false pretenses to mislead and deceive the Manhattan Beach community. As a result, the community was unaware of the harmful changes which its oceanfront landscape will soon endure.
2. NRG is constructing a new beachfront parking lot which was not visually depicted nor adequately disclosed in the Application for Certification.

The complaint concludes with the following requests that the Commission require the project owner to:

1. Provide a visual simulation with a vantage point from the Strand and 44th Street.
2. Cease planned construction of parking lot in the southwest quadrant of Parcel 2.
3. Work jointly with Manhattan Beach to create and execute a plan for visually acceptable camouflage.

Energy Commission staff has reviewed the complaint, and conducted site visits to the ESEC to review each of the complaint items. It is staff's opinion that the complainant does not provide sufficient evidence of any non-compliance by NRG. Because the re-engineering plans for the earthen berm are currently being revised and the draft is

being reviewed, staff believes this complaint is premature in its filing and does not reflect the changes being made pursuant to the Murphy-Perkins Complaint Joint Settlement Agreement filings.

Staff believes that the landscaping issues brought forth by the complainant will be resolved by ongoing discussions and resolution work for the Murphy-Perkins Complaint (12-CAI-03) and review of the re-engineered berm plans. Staff will take the complainants concerns into consideration when reviewing and ultimately approving the revised berm engineering plans.

Staff is docketing, posting to the web, and mailing the report on January 25, 2013, and a written comment period will be open until February 8, 2013.

Staff has concluded that no further investigation is needed and a hearing is not necessary.

Sincerely,

Robert P. Oglesby
Executive Director

Enclosures