

February 8, 2013

Robert Weisenmiller
Chairman
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512



Re: **EI Segundo Energy Center Project Complaint (12-CAI-05)**
Project Owner Comments Regarding Complaint

Dear Chairman Weisenmiller:

On November 26th, 2012, Michael Dolen filed a complaint ("Dolen Complaint") 12-CAI-05, regarding the EI Segundo Energy Center ("ESEC"), 00-AFC-14C and how it was being constructed. Following a careful and thorough investigation regarding the Dolen Complaint, Commission Staff issued a recommendation ("Staff Report") in which they indicated the complainant does not provide sufficient evidence of any non-compliance by the Project Owner. For the reasons explained below, the Project Owner, EI Segundo Energy Center LLC ("ESEC LLC"), agrees with the Staff Report that the Dolen Complaint needs no further investigation and does not require a hearing.

ESEC LLC is currently constructing ESEC using southern portions of the project site for staging, parking and construction support activities related to the project. All uses are in accordance with the Commission's Final Decision and associated amendments. ESEC LLC is also constructing approved visual enhancements along the southern border of the property, including the portion of the property abutting 45th Street in the City of Manhattan Beach (collectively, the "45th Street Enhancements"). The 45th Street Enhancements were the subject of an earlier complaint in 2012 that resulted in a settlement agreement among the parties that Commission Staff endorsed and the Commission directed the Project Owner to comply with. ESEC LLC is doing so.

The Dolen Complaint raised two general issues:

- 1) The Project will cause harm to the environment.
- 2) An un-approved beachfront parking area is being constructed.

ESEC LLC has the following comments regarding the Dolen Complaint:

- 1) To a great extent many of the concerns and issues being raised in the complaint are based on a misconception regarding what, within the administrative record, constitutes the approved project. The Dolen Complaint references various renderings and documents submitted during different phases of the permitting history of the project. Many of these renderings informed the project design that was ultimately approved and permitted, but those earlier renderings do not represent the approved project design itself. Accordingly, they should not be used as the baseline against which the concerns and issues raised in the complaint are measured. This is entirely the case on the second issue of the Dolen Complaint, the parking lot. It is also generally the case for the visual rendering issues raised in the Dolen Complaint.
- 2) ESEC LLC appreciates community involvement and is respectful of the viewpoints and desires of members of the El Porto community of Manhattan Beach. The Dolen Complaint partly seeks changes to features that reflected extensive community input during the permitting process and were designed to meet the consensus of how the southern perimeter of the site should be graded and landscaped.

ESEC LLC will continue to cooperate with and communicate with all community members regarding ESEC and strive to meet the expectations placed upon it by the community.

For the reasons explained above and in the Staff Report, ESEC LLC respectfully urges that no hearing or further investigation be performed on the Dolen Complaint.

Very truly yours,



John A. McKinsey
Counsel for project owner,
El Segundo Energy Center LLC

JAM:dh