



January 13, 2006

Mr. Joe Desmond, Chairman
Mr. James Boyd, Commissioner
Mr. John Geesman, Commissioner
Ms. Jackalyne Pfannenstiel, Commissioner
Dr. Arthur Rosenfeld, Commissioner
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Re: Support for Staff Complaint for Compliance Violations Regarding El Segundo Power Redevelopment Project (00-AFC-014C)

Dear Chair Desmond and Commissioners:

Santa Monica Baykeeper and Heal the Bay, Intervenors in the certification proceedings for the El Segundo Power Redevelopment Project (00-AFC-014), urge the California Energy Commission ("Commission") to impose a civil penalty per the Staff Complaint circulated on January 4, 2006.

As the Staff persuasively argue, the civil penalty is appropriate in this case for a number of reasons, the most important of which is that the project owner has treated the Conditions of Certification (BIO-1 in particular, but also BIO-4 and arguably others) as mere suggestions instead of genuine legal obligations.

Moreover, both the Commission and Staff have been more than patient and accommodating of this particular project owner and its lawyers, to the detriment of the public and the environment. At this stage, the only real consideration should be the *amount* of the civil penalty. While Staff request that the starting date of the per-day penalty should begin on January 3, 2006, there is no principled reason why this date should not be the first due date for the payment, which was September 30, 2005. Setting the starting date any later only rewards the project owner for ignoring the deadline in the first place. Besides the starting date issue, it is unclear why the per-day amount is \$1000 rather than the maximum of \$1,500. Considering that the project owner has likely netted over \$25,000 in interest on the unpaid balance, adjustments to the starting date and per-day amount are particularly appropriate.

We are pleased to see the Staff taking action on this matter and hope that the Commission will follow suit. The end result will be better compliance with Commission decisions and California law. Thank you for the opportunity to comment on this important issue.

Sincerely,

_____/s/_____
Tracy J. Egoscue, Esq.
Executive Director
Santa Monica Baykeeper

_____/s/_____
Mark Gold, D. Env.
Executive Director
Heal the Bay

cc: Mr. Paul A. Kramer, Jr., Senior Staff Counsel (via email)
Mr. Marc Pryor, Compliance Project Manager (via email)