CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512

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00-AFC-14C
DATE NOV - 3 2005
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STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:	)	
EL SEGUNDO POWER	)	**Docket No. 00-AFC-14C**
REDEVLOPMENT	)	
	)	**Order No. 05-1103-06**
EL SEGUNDO POWER II, LLC	)	**ORDER DISAPPROVING Petition to**
	)	**Modify Condition of Certification BIO-1**

On September 30, 2005, El Segundo Power II, LLC, the owner/operators of the El Segundo Power Redevelopment Project, filed a petition to modify the project by amending Condition of Certification BIO-1. The condition currently requires the project owner to provide $5 million, in trust, to the Santa Monica Bay Restoration Commission to assess the ecological condition of the bay. At least $250,000 was required to be provided within 30 days after the Energy Commission Decision (Decision) became final, and the remainder of the first $1 million is to be provided in additional sums of at least $250,000 every 90 days thereafter. The remainder of the monies are to be paid according to the terms of a schedule proposed by the project owner, in consultation with the SMBRC, and as approved by the CPM. The petitioner requests modifying the start of payments from the time period within 30 days of the Decision, to a period of at least 90 days prior to the start of construction of the new generating units.

Due to a challenge of the Decision filed with the California Supreme Court, the final Decision date was delayed. The California Supreme Court denied the petition on August 31, 2005, making the Decision final on that day. The first payment was therefore due on September 30, 2005.

STAFF RECOMMENDATION

The Energy Commission staff reviewed the petition and finds that it fails to satisfy the requirements of Title 20, Section 1769(a)(3)(D) of the California Code of Regulations regarding the need to establish a substantial change in circumstances since the Energy Commission certification. Therefore, staff recommends that the Energy Commission deny El Segundo Power II, LLC's petition to modify the El Segundo Power Redevelopment Project Decision to amend BIO-1 and that payments commence within 30 days of the date this order is signed.

COMMISSION FINDINGS

Based on staff's analysis, the Commission finds that:

- The petitioner fails to demonstrate that there has been a substantial change in circumstances since the Energy Commission certification justifying the change or that the change is based on information that was not available to the parties prior to Energy Commission certification. [Cal. Code Regs., tit. 20, § 1769(a)(3)(D)]

CONCLUSION AND ORDER

The California Energy Commission hereby adopts Staff's recommendations and does not approve the petition and that payments commence within 30 days of the date this order is signed.

IT IS SO ORDERED.

Date: November 3, 2005

STATE ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION

JOSEPH F. DESMOND
Chairman