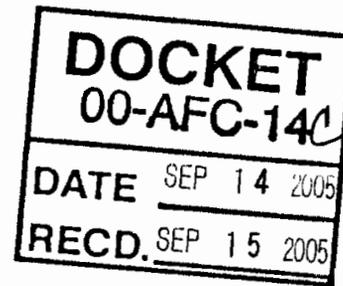


CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



September 14, 2005

Mr. Jesus Arredondo
NRG Energy, Inc./El Segundo Power II, LLC
3741 Gresham Lane
Sacramento, CA 95835

**Subject: El Segundo Power Redvelopment Project (00-AFC-14C)
Compliance with Condition of Certification BIO-1**

Dear Mr. Arredondo:

On February 2, 2005, the Energy Commission certified the El Segundo Power Redevelopment Project (00-AFC-14). Shortly thereafter, Santa Monica Baykeeper and Heal the Bay filed with the California Supreme Court a petition for writ of mandate challenging the Energy Commission's actions. The petition was denied on August 31, 2005. Therefore, Energy Commission staff considers the final Decision date, as applied to Biological Resources Condition of Certification BIO-1, to be August 31, 2005.

BIO-1 states, "[t]he project owner shall place \$5,000,000 in trust for the Santa Monica Bay Restoration Commission (SMBRC)," and provides a payment schedule for the first \$1,000,000 dollars, in \$250,000 increments. (A copy of BIO-1 is enclosed.) The first payment is due within 30 days of the final decision and the remaining payments are provided every 90 days thereafter.

Therefore, the payment schedule is:

First payment due no later than September 30, 2005.

Second payment due no later than December 29, 2005.

Third payment due no later than March 29, 2006.

Fourth payment due no later than June 27, 2006.

In addition, BIO-1 requires that the project owner provide a copy of the funds transfer receipt to the Compliance Project Manager (CPM), but it does not address the timing. Staff requests that the project owner submit receipts to the CPM within 10 days of each transfer. Staff believes this will allow for better tracking of the transfers.

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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.

If you have any questions or comments, please contact Marc Pryor, CPM, either by telephone at (916) 653-0159, or by email at mpryor@energy.state.ca.us

Sincerely,



TERRENCE O'BRIEN, Deputy Director
Systems Assessment & Facilities Siting

Enclosure

cc: John McKenzie, Counsel to El Segundo Power II, LLC
Shelley Luce, Executive Director, SMBRC
Scott H. Valor, Director of Government Affairs, SMBRC

BIO-1: The project owner shall place \$5,000,000 in trust for the Santa Monica Bay Restoration Commission (SMBRC) to assess the ecological condition of the Santa Monica Bay and to develop and implement actions to improve the ecological health of the Bay. At least \$250,000 shall be provided within 30 days after this Decision becomes final, and an additional sum of at least \$250,000 shall be provided every 90 days thereafter until \$1 million has been provided. At that time, the SMBRC in consultation with the project owner, shall propose a schedule for the payment of the remaining funds; within 30 days after submittal of the proposed schedule to the CPM, the CPM shall approve a schedule, which may be the SMBRC's schedule or a modification thereof. The project owner shall comply with the approved schedule. The funds shall be spent as directed by the SMBRC, after consultation with the CPM and the Los Angeles Regional Water Quality Control Board, for the purposes of assessing the ecological condition of the Santa Monica Bay and developing and implementing actions to improve the ecological health of the Bay. To the maximum extent feasible in keeping with those purposes, the studies conducted shall be designed to assist the LARWQCB in carrying out its responsibilities under section 316(b) of the Clean Water Act, for this project and other activities affecting Santa Monica Bay. If any funds remain unspent upon beginning of commercial operation, the project owner may petition the Energy Commission for return of those unspent funds to the project owner.

Verification: The project owner shall submit to the CPM a copy of the receipt transferring funds as required by this Condition. The project owner shall provide to the CPM a copy of any studies carried out under this Condition.