

DOCKETED

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CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
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November 3, 2017

Brian S. Biering
Ellison, Schnieder, Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816

RE: **Application for Confidential Designation-Root Cause
Docket No. 07-AFC-03C**

Dear Mr. Biering:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Sentinel Energy Project, LLC (Applicant). The application seeks confidential designation for portions of the Root Cause Analysis (RCA), as reflected by the redactions to the publicly filed report in the project docket.

The information redacted from the RCA includes:

- 1) Names of facility personnel
- 2) Sentinel Energy's LockOut/TagOut (LOTO) procedures included in Attachment 3
- 3) Photos of multi-point calibration checks included in Attachment 6
- 4) As-built drawings in Attachment 7
- 5) Control screen shots included in Attachment 8

A properly filed Application for Confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "If the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential."

Names of Facility Personnel

Government Code section 6254(c) exempts from disclosure personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. The application states the RCA contains plant personnel information, including specific information regarding plant operators and staff, job performance, and other information typically contained within personnel and similar files.

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In addition to Government Code section 6254(c), the Information Practices Act provides protection from public disclosure of personal information.

Attachments 3, 6, 7, 8

The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) California courts have traditionally used the following definition of trade secret:

A trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207, citing the Restatement of Torts, vol. 4, § 757, comment b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D), states that if an applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, an application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to an applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The application notes that the RCA contains specific compilations of information related to the specific technologies employed at the Sentinel Energy Project, including as-built drawings, photographs of the facility, LOTO Procedure SMP-3 documentation, and other commercially valuable information related to the facility's operations and schematics. Such information constitutes trade secrets as the project owner uses such information for the purposes of electrical generation and derives a business advantage over competitors by virtue of its use.

The various attachments contain information that has not been made public and was developed at considerable expense. Disclosure would allow competitors to use the information and avoid the expense of preparation. This would give competitors an advantage over the applicant.

Applicant has made a reasonable claim that the law allows the California Energy Commission to keep the redacted information confidential.

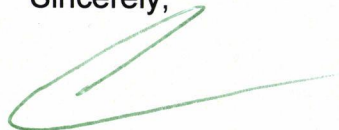
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Applicant requests that the information be kept confidential for the life of the facility because the trade secret information has value through the operation of the project; therefore, it is appropriate to grant confidentiality for the life of the Sentinel facility.

For the reasons stated above, the request for confidential designation for the redacted information is granted. The information will remain confidential for the life of the facility.

If you have any questions concerning this matter, please contact Jared Babula, staff counsel, at (916) 651-1462.

Sincerely,



Drew Bohan
Executive Director

cc: Docket Unit
Christine Root
Geoff Lesh
Dale Rundquist