

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512**DOCKET****11-AFC-2**DATE APR 05 2012RECD. APR 05 2012

April 5, 2012

Samantha G. Pottenger
Ellison, Schneider & Harris LLP
2600 Capitol Ave, Suite 400
Sacramento, CA 95816

**RE: Hidden Hills Solar Electric Generating Facility Application for
Confidential Designation:
Project Specific Phase I Cluster Study Appendix A
Docket No. 11-AFC-2**

Dear Ms. Pottenger:

On March 20, 2012, the Energy Commission received an Application for Confidentiality submitted on behalf of Hidden Hills I and II LLC, ("Applicant"). The Application seeks confidential designation of Appendix A which is the project specific portions of the Phase I Cluster Study.

The Application notes that the project specific data contains proprietary cost information and interconnection queue data which provides a competitive advantage to the Applicant and is a trade secret. The Applicant has never released the proprietary information publically.

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 [Energy] Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.)

The 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, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D) states that if the 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, the application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to the applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

The Applicant has made a reasonable claim that the law allows the Commission to keep the project specific Cluster Study Appendix A information confidential on the grounds that they are trade secrets and/or proprietary information. The information has been developed exclusively by Applicant, contains information that is not public, and has the potential for economic advantage.

Applicant originally requested that the information be kept confidential indefinitely. Requests for indefinite grants of confidentiality are disfavored and closely reviewed. It is my understanding that after discussions with staff the Applicant is amendable to a term of confidentiality for the operation life of the Hidden Hills facility.

The Applicant does not believe the proprietary information can be aggregated to a level that would allow disclosure.

For the above reasons, your request for confidential designation for the submitted portions of the Phase One Cluster Study is granted. The information/data will remain confidential for the operational life of the Hidden Hills facility.

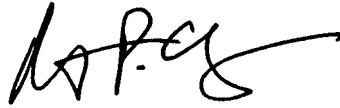
Any subsequent related submittals can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if you file a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'R. P. Oglesby', with a long horizontal stroke extending to the right.

Robert P. Oglesby
Executive Director

cc: Docket Unit
Mike Monosmith, Commission Project Manager
Mark Hesters, Engineering