

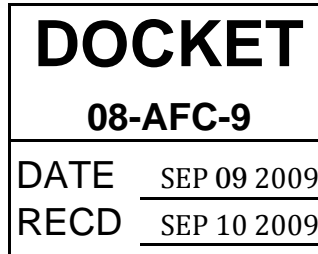
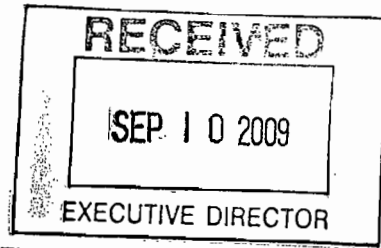
LATHAM & WATKINS LLP

COMPLETED

September 9, 2009

VIA FEDERAL EXPRESS

Ms. Melissa Jones
Executive Director
California Energy Commission
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File No. 039610-0003	

Re: Confidential Submittal - Palmdale Hybrid Power Plant Project (08-AFC-9)
Revised Application for Confidential Designation – Mitigation Map

Dear Ms. Jones:

On behalf of the City of Palmdale (“Applicant”) for the Palmdale Hybrid Power Project (08-AFC-9), I am submitting a revised application for confidential designation for a map depicting potential compensation mitigation lands (“Mitigation Map”) that was first submitted to the Energy Commission on July 23, 2009¹ and subsequently submitted in revised form on August 20, 2009.²

In a letter dated August 27, 2009, you denied the Applicant’s initial request for confidentiality because “the applications do not provide sufficient explanation upon which the Commission may grant the requests.” Your letter invited the Applicant “to file a new application for confidentiality if there are legal provisions which you believe supports your requests.” Your letter also states that the “[Mitigation Map] will not be publicly disclosed” during the “fourteen days from my decision.”

Accordingly, this letter constitutes the Applicant’s revised application for confidential designation for the Mitigation Map. It is our understanding that because our revised application will be filed during the fourteen day appeal period, the Mitigation Map will remain confidential during your review of this revised application.

¹ See PHPP Docket Log # 52590, July 23, 2009, “Application for Confidential - Biological Resources Mitigation Map.”

² See PHPP Docket Log # 52960, August 20, 2009, “Application for Confidential - Revised Biological Resources Mitigation Map.”

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The Applicant requests that the Mitigation Map be designated confidential pursuant to the Energy Commission's siting regulations (Title 20, California Code of Regulations, § 2505) and California Government Code § 6254(k) (protecting disclosure of information that is exempted or prohibited under state law, including trade secrets pursuant to Evidence Code § 1060). (*See Uribe v. Howie* (1971) 19 Cal. App. 3d 194, 206-207.) Under controlling law expressed in *Uribe, supra*, 19 Cal. at 207:

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. (Emphasis added.)

The Mitigation Map represents a compilation of information trade secret that was developed by the Applicant. The Mitigation Map provides the Applicant with an advantage over potential competitors who have not developed such a compilation of information. Disclosure of the Mitigation Map may materially harm the Applicant by impairing its acquisition of mitigation lands in a manner that would not occur if the Mitigation Map were not publicly disclosed.

The Applicant requests that the entirety of the Mitigation Map be kept confidential indefinitely. The Applicant requests that the Mitigation Map not be disclosed even if aggregated with other information or redacted to conceal certain information.

The Applicant has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, consultants, or others working as part of the project application before the Energy Commission. Moreover, this information has not been disclosed by the Applicant except on a "need-to-know" basis.

I have been authorized to make this application and certification on behalf of the Applicant. With my signature to this letter, I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge.

Best regards,



Marc T. Campopiano
of LATHAM & WATKINS LLP

cc: Deborah Dyer, California Energy Commission (via Federal Express)