

STATE OF CALIFORNIA
Energy Resources Conservation
And Development Commission

DOCKET	
07-AFC-8	
DATE	<u>MAY 01 2009</u>
RECD.	<u>MAY 01 2009</u>

In the Matter of:) Docket No. 07-AFC-8
)
Application for Certification)
for the Carrizo Solar Energy Farm)
by Carrizo Energy, LLC) May 1, 2009

Staff Response to Applicant’s Motion for Protective Order

Pursuant to California Code of Regulations, Title 20, section 1716.5¹, the staff (Staff) of the California Energy Commission (Commission) submits this response to the Motion of Carrizo Energy, LLC for a Protective Order to Maintain the Confidentiality of Corridor Location Results of the Wildlife Corridor Study, and to Designate Entities Having Access to the Corridor Location Results, filed on or about April 16, 2009.

Applicant cites as a basis of its motion section 2505 of the regulations. Section 2508 (b) of the regulations provides that the Applicant has the burden of proof on its motion. Therefore, Applicant has the burden of establishing that the public interest served by not disclosing the information clearly outweighs the public interest served by its disclosure. Applicant’s motion requires a careful weighing by the decision maker of both interests.

Staff has no stake in this motion and is neutral with respect to the outcome. Such neutrality does not mean or imply that staff is unwilling to make a recommendation or take a position should the facts and the law justify it, just that Staff is unable to do so without the benefit of having read and considered all the arguments from all the parties in this matter, particularly those parties who have a stake in its outcome and will be filing a responsive brief.

Staff has identified a number of issues raised by the Applicant’s moving papers which if further addressed by the Applicant would assist in the resolution of the

¹ Unless otherwise noted, all references herein to “Sections” refer to Title 20 of the California Code of Regulations.

motion. Those issues include clarification of the following:

- The length of time Applicant is asking the information be kept confidential;
- How the results of the wildlife corridor study would eventually be brought back into the certification process;
- The expected impact to the Project and the Applicant's interests should confidentiality be denied;
- The expected impact to solar power development generally in the Carrizo Plain region and California generally, should confidentiality be denied;
- Whether when considering the public's interest in disclosure of the information, local landowners in the Carrizo Plain region have interests that may be different from the public generally; and
- Whether the Applicant's concerns over confidentiality may be moot at this point due to any public interest in the project that has already occurred.

Should any parties disagree with the Applicant's position, resolution of the motion would be benefitted by having those parties' written responses to the Applicant's position on the above points, as Staff is also interested in an explanation of why those parties believe their interests in disclosure of the information outweigh any public interest in keeping the information confidential.

Should the Committee desire further briefing from the parties, Staff respectfully recommends that the Committee order appropriate sequential briefing from any or all parties it believes could provide relevant information. If Staff will be requested to file something further, it requests that the Committee schedule Staff's brief to be due a reasonable time after all other briefs have been filed by the other parties.

Dated: May 1, 2009

Respectfully submitted,

/S/

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**APPLICATION FOR CERTIFICATION
FOR THE CARRIZO ENERGY
SOLAR FARM PROJECT**

**Docket No. 07-AFC-8
PROOF OF SERVICE
(Revised 4/10/2009)**

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DECLARATION OF SERVICE

I, **Chester Hong**, declare that on **May 1, 2009**, I served and filed copies of the attached **Staff Response to Applicant’s Motion for Protective Order**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[<http://www.energy.ca.gov/sitingcases/carrizo/index.html>]. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission’s Docket Unit, in the following manner:

(Check all that Apply)

For service to all other parties:

X sent electronically to all email addresses on the Proof of Service list;

X by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked “email preferred.”

AND

For filing with the Energy Commission:

X sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below **(preferred method)**;

OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-8
1516 Ninth Street, MS-4
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I declare under penalty of perjury that the foregoing is true and correct.

_____/S/_____
Chester Hong