

John Ruskovich
13084 Soda Lake Road
Santa Margarita, CA 93453
agarnett@tcsn.net

STATE OF CALIFORNIA
State Energy Commission
And Development Commission

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| DOCKET | |
| 07-AFC-8 | |
| DATE | <u>MAY 01 2009</u> |
| RECD. | <u>MAY 04 2009</u> |

In the Matter of:

Docket No: 07-AFC-8

Application for Certification for the Carrizo
Energy Solar Farm by Carrizo Energy, LLC

**LEGAL INTERVENER JOHN RUSKOVICH'S OBJECTIONS TO CARRIZO
ENERGY, LCC'S PETITION FOR CONFIDENTIALITY OF WILDLIFE
CORRIDOR STUDY**

Legal Intervener John Ruskovich provides this objection to Carrizo Energy, LLC's Motion for a Protective Order for Confidentiality of Wildlife Corridor Study.

The Applicant states "disclosure of the corridor location will identify high value property parcels or locations along the preferred mitigation corridor for the study's focal species and disclosure of this information must be controlled to prevent the undue increases to the value of land identified within the corridor location results". The motion asks all information, whether existing or future be determined confidential with access limited to designated entities and recommends it remain so until all three (3) solar projects included in the study have obtained corridor mitigation land.

The Applicants request for confidentiality is far too late to be effective.

The public is already aware of the general location of the migration corridors and since the corridor is contained in a relatively small valley, any refinement to the corridor models and the determination of actual mitigation strategies will not greatly impact the public understanding of

the corridors general location. What will be considered high value property is obvious as the Carrisa Plains is a relatively small community.

Applicant's argument that the corridor study must be under a protective order to maintain study confidentiality in order to assure mitigation lands are available at un-inflated prices is unfounded.

Since the study and its goals of creating corridor mitigation strategies are already common knowledge, it is common sense that any land owner in or near the already publicly disclosed location of the baseline corridor will recognize that land acquisition offers from any of the three companies are for the purpose of corridor mitigation. This is also evident since there are only a small number of "large" parcel land owners. At this time anyone approached about selling their land will know why.

The Applicant's suggestion that the corridor location results be limited to Designated Entities is unenforceable and illegal.

The Designated Entities include Federal, private, and other State parties that are not under the jurisdiction of the Commission and therefore the Commission would have no authority to enforce this confidentiality. To attempt to shut out all legal interveners is also unmitigated and illegal.

Applicant's request that the corridor location results remain confidential "until all projects have satisfied all mitigation requirements involving the purchase of land to mitigate impacts to biological resources" is impracticable and may prove infeasible.

The other two projects, Topaz Solar Farm (TSF) and California Valley Solar Ranch (CVSR), are under the jurisdiction of San Luis Obispo County and each are at different phases in the permitting process. CVSR the Environmental Impact Review for CVSR is not expected to begin until May, 2009 and will most likely require a year or more to evaluate its impacts and determine impact mitigation. The TSP permitting process has been on hold since October 2008 due to lack of EIR funding by the project developer. Once started, its process will also likely require a year to evaluate and determine mitigation requirements. Should the Commission's siting process be complete before the mitigation requirements for the other two projects have occurred, there would be no opportunity for the public to review or comment on the mitigation results.

The Applicant states that limitations on disclosure of the corridor results are warranted under the California Public records act and cites "the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained...." and continues to say the corridor location results are essentially a real estate appraisal.

The corridor location results have nothing to do with a real estate evaluation. It is a result of a biological study which is most likely the most important biological issue in the review of the Carrizo project because the migration corridor is considered crucial to the recovery of a Federally listed endangered species and contains habitat for herds of rare game species for which the state has spent considerable efforts and tax payer monies to re-establish. Its value as a **biological study** far outweighs any possible perceived value as a real estate appraisal. The issue is about the Wildlife and preserving it, not helping the Applicant save money.

The Applicant also argues the importance of Corridor Location Result confidentiality by stating it best serves the public interests.

However, the withholding of results of environmental studies associated with potentially huge environmental impacts by no means serves the public's interest. Instead, this protective order could be considered to be a grave injustice to the public. The actual motivation of the order is more likely the exclusion the public from the corridor study process in an attempt to limit public input and to withhold the actual findings of project impacts to the migration corridor from public scrutiny.

The Applicant states the role of the public's involvement in this study is limited and only able to make general comments. However, this is not a realistic assessment of

John Ruskovich
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agarnett@tcsn.net

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DECLARATION OF SERVICE

I, John Ruskovich, declare that on May 1, 2009, I served and filed copies of the attached Objection to Request 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 all 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;

by personal delivery or by depositing in the United States mail at Atascadero, 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 copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-8
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

/s/ 5/1/09
John Ruskovich

John Ruskovich
 13084 Soda Lake Road
 Santa Margarita, CA 93453
agarnett@tcsn.net

STATE OF CALIFORNIA
 State Energy Commission
 And Development Commission

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|--|---------------------|
| BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION OF THE STATE OF CALIFORNIA 1516 NINTH STREET, SACRAMENTO, CA 95814 1-800-822-6228 – WWW.ENERGY.CA.GOV | |
| APPLICATION FOR CERTIFICATION FOR THE CARRIZO ENERGY SOLAR FARM PROJECT | Docket No. 07-AFC-8 |
| PROOF OF SERVICE (Revised 4/10/2009) | |

APPLICANT

*Perry H. Fontana, QEP
 Vice President-Projects
 Ausra, Inc.
 303 Ravendale Drive
 Mountain View, CA 94043
perry@ausra.com

APPLICANT CONSULTANT

Angela Leiba, GISP
 Senior Project Manager
 GIS Manager/Visual Resource
 Specialist
 URS Corporation
 1615 Murray Canyon Road,
 Suite 1000
 San Diego, CA 92108
angela_leiba@urscorp.com

Kristen E. Walker, J.D.
 URS Corporation
 1615 Murray Canyon Road,
 Suite 1000
 San Diego, California 92108
kristen_e_walker@urscorp.com

COUNSEL FOR APPLICANT

Jane E. Luckhardt
 DOWNEY BRAND
 621 Capitol Mall, 18th Floor
 Sacramento, CA 95814
jluckhardt@downeybrand.com

INTERESTED AGENCIES

California ISO
e-recipient@caiso.com

INTERVENORS

Mr. John A. Ruskovich
 13084 Soda Lake Road
 Santa Margarita, California 93453
agarnett@tcsn.com

Mr. Michael Strobridge
 9450 Pronghorn Plains Road
 Santa Margarita, California 93453
mike_76@live.com

California Unions for Reliable
 Energy (CURE)
 c/o Tanya Gulesserian
 Adams Broadwell Joseph &
 Cardozo
 601 Gateway Boulevard, Suite 1000
 South San Francisco, CA 94080
tgulesserian@adamsbroadwell.com

John Burch
 Traditional Council Lead
 Salinan Tribe
 8315 Morro Road, #202
 Atascadero, California 93422
salinantribe@aol.com

Environmental Center of
 San Luis Obispo (ECOSLO)
 c/o Babak Naficy
 P.O. Box 13728
 San Luis Obispo, California 93406
babaknaficy@sbcglobal.net

ENERGY COMMISSION

JEFFREY D. BYRON
 Commissioner and Associate
 Member
jbyron@energy.state.ca.us

Gary Fay
 Hearing Officer
Gfay@energy.state.ca.us

John Kessler
 Project Manager
jkessler@energy.state.ca.us

Caryn Holmes
 Staff Counsel
cholmes@energy.state.ca.us

Michael Doughton
 Staff Counsel
mdoughto@energy.state.ca.us

Elena Miller
 Public Adviser
publicadviser@energy.state.ca.us

*indicates change