

**DOCKETED**

<b>Docket Number:</b>	24-OPT-01
<b>Project Title:</b>	Perkins Renewable Energy Project
<b>TN #:</b>	256639
<b>Document Title:</b>	CEC Response Letter regarding Confidentiality Application for Appendix J6, dated Feb 15, 2024
<b>Description:</b>	N/A
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<b>Docketed Date:</b>	5/31/2024



May 31, 2024

**Via Email**

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**Application for Confidential Designation:  
Perkins Renewable Energy Project  
Docket No. 24-OPT-01**

Dear Emily Cappello,

The California Energy Commission (CEC) has received the IP Perkins, LLC, IP Perkins BAAH, LLC, and c/o Intersect Power, LLC's (applicant) Application for Confidentiality (TN 254475), dated February 15, 2024, covering the following information in its entirety:

- Appendix J.6 – Wildlands Mitigation Memorandum (memo)

The memo discusses available private lands that could provide compensatory mitigation for the Flat-Tailed Horned Lizard (FTHL) and associated vegetation communities, including the Creosote Brush Scrub (CBS), and the Alkali Golden Desert Scrub. The extent of the search was focused in eastern San Diego and Imperial Counties. A properly filed application for confidentiality shall be granted under 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 [California Energy] Commission to keep the record confidential."

**Discussion**

The applicant stated that the memo should be kept confidential in its entirety, indefinitely, at the request of Wildlands, the applicant's mitigation partner. The applicant reasoned confidentiality is necessary to protect the viability of potential high priority mitigation lands that Wildlands is currently pursuing.

When an applicant has received information from another party, and that party demands or requests the information be maintained as confidential, the applicant may assert confidentiality pursuant to California Code of Regulations, title 20, section 2505(a)(1)(H).

The applicant states the public interest will be served by nondisclosure by preventing the potential harm or destruction of rare plants, animals, and natural communities. Harm to or destruction of these species /or natural communities could impact the persistence of these resources, thus limiting future recreational viewing or scientific study.

The applicant claims the information disclosed in the confidential report cannot be aggregated or masked. Further, the applicant states that aggregation of the confidential report itself would potentially hinder CEC staff when performing their review and analysis. Lastly, the applicant asserts that the information contained within the report has not been disclosed by the consultant to any parties beyond the applicant's staff who are directly associated with the proposed project.

The memo does not identify any locations of particular tracts of land that may contain plants, animals, or natural communities of any kind. The memo merely concludes that suitable FTHL and CBS compensatory mitigation land is adequately available.

This does not explain any basis for the confidentiality request made by the third party who asked for the document to be kept confidential. There are no facts in the application, or evident from the document, from which to infer that its disclosure would impair CEC's evaluation of mitigation lands, if needed.

Additionally, the CEC met with the applicant to discuss this application for confidentiality on May 23, 2024. In that meeting the applicant indicated that it was acceptable for the memo to be made public.

#### **Executive Director's Determination**

The applicant has not made a reasonable claim that the information contained in the Appendix J.6 memo can be maintained as confidential indefinitely. Therefore, confidentiality is denied. Within 14 days of the date of this letter, please file Appendix J.6 in docket No. 24-OPT-01 to ensure public access.

You may request that the CEC determine the confidentiality of records for which the executive director denied confidential designation. You have 14 days to request that the CEC determine the confidentiality of the record. If you make such a request, the CEC will conduct a proceeding pursuant to the provisions in the California Code of Regulations, title 20, section 2508.

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,



Drew Bohan  
Executive Director