

DOCKETED	
Docket Number:	23-OPT-02
Project Title:	Darden Clean Energy Project
TN #:	260918
Document Title:	CEC Response to Darden's Application for Confidential Designation - Bio Swainsons Hawk
Description:	N/A
Filer:	Marianna Brewer
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	1/8/2025 10:06:26 AM
Docketed Date:	1/8/2025



January 08, 2025

Via Email

Evelyn Langsdale
Rincon Consultants
9450 SW Gemini Drive, PMB #68743
Beaverton, Oregon 97008-7105
elangsdale@rinconconsultants.com

**Application for Confidential Designation for Swainson's Hawk Biological
Resources Information
Docket No. 23-OPT-02**

Dear Evelyn Langsdale:

The California Energy Commission (CEC) has received an application for confidentiality from IP Darden I, LLC c/o Intersect Power, LLC (applicant) (TN 260530), filed December 6, 2024, for the following studies, cited and summarized in Appendix V: Swainsons Hawk Conservation Strategy Darden Clean Energy (TN 253021):

- Estep Environmental Consulting. 2011. The Distribution and Abundance of Nesting Swainson's Hawks in the Vicinity of the Proposed RE Tranquillity LLC Solar Generation Facility. 64 pp.
- Estep Environmental Consulting. 2013. Swainson's Hawk and Other Raptor Foraging Use of Solar Array Fields within an Agricultural Landscape in Sacramento County. 27 pp.
- Estep Environmental Consulting. 2016. The Distribution and Abundance of Nesting Swainson's Hawks in the Vicinity of the Proposed RE Scarlet Solar Generation Facility. Prepared for RE Scarlet LLC. September. 100 pp.
- Estep Environmental Consulting. 2021. Swainson's Hawk and Other Raptor Foraging Use of Solar Array Fields within an Agricultural Landscape in Sacramento County. Year 2. 41 pp.

The application identifies that these studies were created at the expense of other private entities, including other renewable energy developers, and applicant is not the owner of these records. The authors of these studies and the renewable energy developers they were created for have not made them available to the public, and the applicant has not been authorized to share these records publicly. According to the applicant, nondisclosure of these studies will protect the intellectual property of the creators of these studies and encourage the sharing of biological resources information within the renewable energy development industry. The application requests that the studies be

kept confidential indefinitely, or until they are made public by the authors or owners of the information.

Confidentiality Claims

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 Commission to keep the record confidential."

The California Government Code section 7922.000 provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure.

Discussion

The submitted studies on Swainson's Hawk have not been made public and applicant is not the owner of the information. The public interest served by not disclosing this information clearly outweighs the public interest served by disclosure by protecting the intellectual property of private entities and encouraging the sharing on biological resources information within the renewable energy development industry. (Gov. Code, § 7922.000.)

Executive Director's Determination

The applicant has made a reasonable claim that the documents identified above can be maintained as confidential indefinitely, or until the authors or owners of the information have released them to the public. As such, the applicant's request for confidential designation of the documents listed above is granted.

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

If you have questions, please email confidentialityapplication@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director