

## DOCKETED

<b>Docket Number:</b>	16-ENFORCE-02
<b>Project Title:</b>	Confidential Designation Applications + Miscellaneous Documents
<b>TN #:</b>	222146
<b>Document Title:</b>	Waterway Plastics, Inc.'s Application for Confidential Designation
<b>Description:</b>	Confidential documents responsive to the CEC letter dated October 31, 2017.
<b>Filer:</b>	Patty Paul
<b>Organization:</b>	Lester Schwab Katz & Dwyer, LLP/Steven B. Getzoff
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	1/16/2018 12:05:41 PM
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LESTER SCHWAB KATZ & DWYER, LLP

100 WALL STREET  
NEW YORK, N.Y. 10005-3701  
(212) 964-6611  
FAX: (212) 267-5916

STEVEN B. GETZOFF  
Writer's Direct Dial: (212) 341-4345  
E-Mail: sgetzoff@lskdnylaw.com

NEW JERSEY OFFICE  
500 Frank W. Burr Blvd  
5<sup>th</sup> Floor, Suite 31  
TEANECK, N.J. 07666  
(973) 912-9501

January 11, 2018

*Via FedEx Overnight Mail*  
*Tracking No.: 7711 9964 1669*

Energy Commission Docket Unit  
California Energy Commission  
1516 Ninth Street, MS-14  
Sacramento, CA 95814

**Re: Applicant:** Waterway Plastics Inc.  
**Address:** 220 East Sturgis Road  
Oxnard, CA 93030  
**Phone:** 805-431-1428  
**E-mail:** [willys@waterwayplastics.com](mailto:willys@waterwayplastics.com)  
**Proceeding or Project Name:** ENF-#104

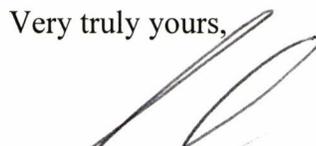
Dear Sir or Madam:

Enclosed please find the following documents:

1. Waterway Plastics Inc. Application for Confidential Designation pursuant to Title 20 Cal. Code 2505 et. seq.
2. Letter from Steven Getzoff on behalf of Waterway Plastics Inc. dated January 11, 2018, with exhibits, for which Confidentiality is requested.

Thank you for your courtesy and cooperation.

Very truly yours,



STEVEN B. GETZOFF

SBG:wm  
4822-0132-5402

Enclosures



**APPLICATION FOR CONFIDENTIAL DESIGNATION**  
**(Title 20 Cal. Code. Regs., § 2505 et seq.)**  
 CEC-13 (Revised 03/17)

**All confidential filings:** Individual documents may not exceed 30 MB<sup>1</sup> or be password protected.<sup>2</sup> The application must be a separate document from the confidential materials. The application itself is not confidential and is a public record. The application will be reviewed and acted upon by the Executive Director in consultation with the Chief Counsel of the Energy Commission. (§ 2505, subd. (a))

If you have questions, contact the Docket Unit at (916) 654-5076 or email: [docket@energy.ca.gov](mailto:docket@energy.ca.gov).

**Existing proceedings:** Applications for confidentiality and the confidential documents must be uploaded directly to the Docket Unit through the e-filing system. Paper copies or CDs do not need to be submitted. Links to the e-filing system are provided on most proceeding webpages labeled "**Submit e-filing.**" Alternatively, go to: <http://www.energy.ca.gov/e-filing/index.html>. Registration is necessary the first time documents are uploaded. Once registration is complete, to submit a confidential filing click on **Quick Actions** from the **DASHBOARD** and select **Submit Confidential e-filing** from the dropdown list. The application must be uploaded first followed by one or more confidential files.

**Filings not associated with any proceeding:** Applications for confidentiality and the confidential materials must be submitted directly to the **Docket Unit** in paper form or on a CD, but not by email. Two copies must be submitted, on separate media if electronic, each marked with a descriptive title and "Confidential." (§ 1208.1)

**TO: Energy Commission Docket Unit**

Applicant: Waterway Plastics Inc.

Address: 220 East Sturgis Road, Oxnard, CA 93030

Phone and E-mail: 805-431-1428; [willys@waterwayplastics.com](mailto:willys@waterwayplastics.com)

Proceeding or Project Name: ENF-#104

Docket Number:

- 1(a). Title, date, and description (including number of pages) of the information or data for which you request confidential designation. **Information or data seeking a designation of confidentiality must be included with this application.**

**Confidentiality is requested for all documents responsive to the CEC letter dated October 31, 2017 requesting sales figures within the last three years for model PH1150-3 and other specified model pumps, as well as a list of California purchasers of same and other related materials submitted as part of a settlement negotiation.**

**These documents consist of a letter dated January 8, 2018 (5 pages) which addresses possible resolution, along with 22 pages of supporting documents consisting of A) invoices and photographs indicating similar products (8 pages), B) sales figures (3 pages) and C) customer list (5 pages).**

<sup>1</sup> Contact the Docket Unit if you cannot reduce the size of your file.

<sup>2</sup> If you wish to protect the files while in transit, you may combine them in a password-protected .zip file.

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1(b). Specify the part(s) of the information or data for which you request confidential designation.

**Waterway. requests that all of the above martials be designated as confidential, which consist of a letter dated January 8, 2018 (5 pages) which addresses possible resolution, along with 22 pages of supporting documents consisting of A) invoices and photographs indicating similar products (8 pages), B) Waterway sales figures (3 pages) and C) Waterway customer list (5 pages).**



**APPLICATION FOR CONFIDENTIAL DESIGNATION**  
 (Title 20 Cal. Code. Regs., § 2505 et seq.)  
 CEC-13 (Revised 03/17)

2. State and justify the length of time the Energy Commission should keep the information or data confidential.

**The information should be designated confidential permanently. The information includes confidential settlement communications, which contains confidential business information, including customer lists and sales figures and related information.**

- 3(a). State the provision(s) of the Public Records Act (Gov. Code, § 6250 et seq.) or other law that allows the Energy Commission to keep the information or data confidential, and explain why the provision(s) apply to that material.

**The Public Records Act at Government Code Sections 6254(t) and 6254(k) allows for the exemption of disclosure of records pertaining to the investigation of information by a state agency, and records protected under provisions of the Evidence Code relating to privilege, such as settlement communications.**

- 3(b). Discuss the public interest in nondisclosure of the material submitted for a confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

**Granting the designation of confidentiality is in the public interest in order to facilitate the exchange of information and discussions of settlement.**

**The information requested to be designated as confidential includes product sales information as well as the identity of customers. Disclosure of this information would unduly harm business operations and create a competitive disadvantage for Waterway Plastics Inc. This information cannot be obtained or duplicated by others.**

**Since this entire submission is also part of a settlement communication, all the information is protected under the Section 1152 et. seq of the California Evidence Code regarding settlement communications.**

4. State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.

**All of the documentation is a part of a settlement communication. In addition, sales data indicates sales totals by specific model and therefore cannot be aggregated. If reference to all manufacturer, model and customer identities were removed, the total combined sales may be aggregated provided that any such disclosure combines sales from ALL of the other manufacturers selling comparable products into a single total and there are a minimum of four manufacturers providing data for each category/aggregate.**

5. State how the material is kept confidential by the applicant and whether it has even been disclosed to a person

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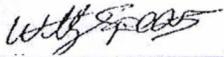
other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.

**All of the documentation is a part of a settlement communication. The entire submission, including the the sales and customer information, is available only to outside Waterway counsel and upper management for Waterway Plastics. Inc.**

I certify under penalty of perjury under the laws of the State of California that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the applicant.

Dated: 01/10/2018

Signed: \_\_\_\_\_





CALIFORNIA ENERGY COMMISSION

**APPLICATION FOR CONFIDENTIAL DESIGNATION (Title  
20 Cal. Code. Regs., § 2505 et seq.)**  
CEC-13 (Revised 03/17)

Name (print or type): Willy Spears \_\_\_\_\_

Title: (print or type) President \_\_\_\_\_

Representing: Waterway Plastics Inc. \_\_\_\_\_

Include additional signature blocks if there are multiple partners in the project with shared responsibilities for making the request.