DOCKETED

Docket Number:	16-ENFORCE-02
Project Title:	Confidential Designation Applications + Miscellaneous Documents
TN #:	223323
Document Title:	Waterway Plastics Inc.'s Application for Confidential Designation
Description:	Confidential data is Waterway's estimated sales and market shares with regard to products addressed by the CEC.
Filer:	Patty Paul
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Submitter Role:	Applicant Representative
Submission Date:	5/4/2018 2:11:19 PM
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May 2, 2018

Via FedEx Overnight Mail
Tracking No.: 7721 3663 0435

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
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 May 2, 2018, with one exhibit, for which Confidentiality is requested.

Thank you for your courtesy and cooperation.

Very truly yours,

STEVEN B. GETZOFF

SBG:wm
4822-7500-4516

Enclosures

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION

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[1] or be password protected.[2] 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.

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 compete, 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

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 the letter addressed to the CEC dated April 30 2018, and the three page report attached thereto. These letter reveals Waterway's estimated sales and market shares with regard to products addressed by the CEC. These documents are also submitted as part of a settlement negotiation.

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 April 30, 2018 (5 pages) which addresses possible resolution, along with a 3 page report as supporting documentation.

[1] Contact the Docket Unit if you cannot reduce the size of your file.
[2] If you wish to protect the files while in transit, you may combine them in a password-protected .zip file.

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 sales figures and market share estimates.

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 market share estimates. Disclosure of this information would unduly harm business operations and create a competitive disadvantage for Waterway Plastics Inc. The market share and sales information in the April 30, 2018 letter 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 totals and market share estimates sales 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

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 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: 04/30/2018

Signed: _____

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION

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

Name (print or type): RAY MIRZAEI

Title: (print or type) VICE PRESIDENT, TECHNOLOGY & QA

Representing: Waterway Plastics Inc.

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