

ELLISON, SCHNEIDER & HARRIS L.L.P.

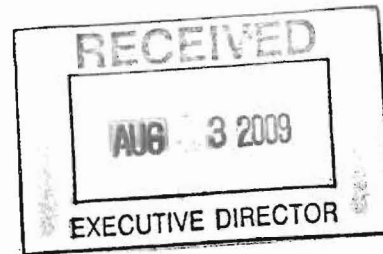
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DOCKET 09-AFC-3
DATE AUG 03 2009
RECD. AUG 03 2009

August 3, 2009



Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

COMPLETED

RE: Mariposa Energy Project – Docket No. 09-AFC-3
Application for Confidential Designation: Emission Reduction Credits

Dear Ms. Jones:

Pursuant to Title 20 California Code of Regulations (CCR) Sections 2501 *et seq.*, Mariposa Energy, LLC (the “Applicant”) hereby submit this “Application for Confidential Designation,” for the Mariposa Energy Project.

I am submitting the Application and confidential material directly to you without docketing at the Docket Unit. Enclosed are twelve copies plus an original of this request and five copies of the confidential information it concerns. Please feel free to contact me at (916) 447-2166 should you have any questions or require additional information. Thank you for your consideration of our request.

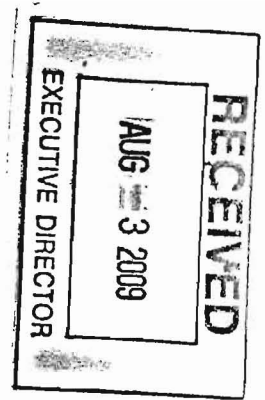
Sincerely,

A handwritten signature in black ink, appearing to read "Andrew B. Brown".

Andrew B. Brown
Attorneys for the Applicant

enc.

APPLICATION FOR CONFIDENTIAL DESIGNATION
Mariposa Energy Project (Docket No. 09-AFC-3)
Mariposa Energy, LLC (the "Applicant")



Air Quality Emission Reduction Credits ("ERCs")

1. *Specifically indicate those parts of the record which should be kept confidential.*

Information regarding sources and quantities of emission reduction credits. Specifically, Attachment DA 5.1-2.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

Applicant has initiated discussions with brokers for the emission reduction credits necessary for the project. The sources and quantities of Applicant's potential emission reduction credits should remain confidential until Applicant has completed its negotiations and executed final, binding contracts for all the emission reduction credits necessary for the project. Since these contracts will have to be in place prior to facility operation, Applicant asks that this information remain confidential until that time. After that time, Applicant has no objection to public release of the information.

3. *Cite and discuss (i) the provisions of the Public Records Act or other law which allow the commission to keep the record confidential and (ii) the public interest in nondisclosure of the record.*

The emissions credit information is exempt from disclosure pursuant to Government Code § 6254.7. That law generally exempts information of this type from disclosure. In particular, subsection (f) of that statute states that "[d]ata used to calculate the costs of obtaining emissions offsets are not public records." The sources and quantities of Applicant's offsets are information the Commission will use to calculate the costs and feasibility of obtaining offsets. In addition, further authority for nondisclosure can be found in Government Code sections 6254.11 [records that relate to volatile organic compounds or chemical substances information received or compiled by an air pollution control officer pursuant to Section 42303.2 of the Health and Safety Code] and 6255 [public interest in nondisclosure outweighs interest in disclosure].

The public interest in nondisclosure of this emissions information is that disclosure would inhibit fair, arms-length negotiation of offset purchases. The market for offsets in the Bay area is highly competitive, as the supply of offsets available for purchase in the area in which the proposed project is to be constructed is limited and there are other applicants competing for these offsets. As Applicant has devoted a great deal of time and energy to developing these potential offset sources, and because Applicant requires these offsets to successfully license its project, disclosure of this information would be very damaging to

the project's licensing effort. To the extent any potential seller of emission credits, or any competing potential buyer, learns of this information during the negotiation period, it will prejudice Applicant's negotiating position by revealing Applicant's offers, its remaining needs for credits, and other proprietary information regarding its negotiating position. In addition, disclosure would potentially raise the cost of the offsets which in turn may raise the price of electricity from the project to the public.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

Applicant considered whether it would be possible to aggregate or mask the information. However, no feasible method of aggregating or masking the information could be identified that would not either disclose the information or render the information provided useless.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

Applicant has not disclosed any of the subject information to anyone other than its employees, attorneys and consultants working on the project. Moreover, this information has not been disclosed to persons employed by or working for Applicant except on a "need-to-know" basis. Applicant is marking this information as "confidential" and is instituting a policy that it be segregated from the other project files and that access to it be restricted.

I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make the Application and Certification on behalf of Applicant.

Dated: August 3, 2009

ELLISON, SCHNEIDER & HARRIS L.L.P.



Andrew B. Brown
Attorneys for Applicant