



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV

**APPLICATION FOR CERTIFICATION FOR THE
HIDDEN HILLS SOLAR ELECTRIC
GENERATING SYSTEM**

Docket No. 11-AFC-02

California Energy Commission

**DOCKETED
11-AFC-2**

TN # 69605

FEB 20 2013

**ENERGY COMMISSION STAFF COMMENTS
ON OLD SPANISH TRAIL ASSOCIATION
MOTION FOR SUBPOENA DUCES TECUM**

Intervenor Old Spanish Trail Association (OSTA) has filed a motion for subpoena for various data pertaining to surveys seeking traces of the Old Spanish Trail on the project site. Several of the documents sought (set forth in the first item of the motion) are items already submitted to the Energy Commission, and are either available as public records, or subject to confidentiality designations pursuant to the California Public Records Act. To the extent the motion seeks items that are already docketed with the Commission as public records, the OSTA motion is an inappropriate discovery mechanism.

OSTA lists on page 2 of its motion the kind of information that it seeks, particularly with regard to the cultural resources survey that surveyed for evidence of the Old Spanish Trail on the project site. Staff understands that the survey concluded that there were no trail traces; if there were not, there are no "sites" that could be imperiled by release of those portions of the cultural resources survey that pertain to the trail, including survey techniques and conditions, and instructions for the consultants, for the Old Spanish Trail. If this is correct, there is no apparent reason why OSTA should not have access to that information in the cultural resources report.

OSTA might attempt to acquire such information by filing a petition with the Energy Commission Chief Counsel pursuant to the Commission's regulations, requesting that

the parts of the cultural resource survey pertaining to the Old Spanish Trail be released, either in subpart or in a redacted version that removed any location information about other cultural resources. (Cal. Code Regs., tit. 20, § 2506, subd. (a).) This, of course, would require action by the agency and may take time. Alternatively, Brightsource could simply provide that portion of the consultant's report pertaining to the trail survey, redacting or withholding any sensitive information pertaining to artifacts or site locations. This might at least partly resolve this discovery issue raised at this every late date in the process.

Date: February 20, 2013

Respectfully Submitted,



Richard C. Ratliff - Staff Counsel IV
Pippin Brehler - Staff Counsel III
Kerry Willis - Staff Counsel III



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(Revised 2/8/13)**

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DECLARATION OF SERVICE

I, Pamela Fredieu, declare that on February 20, 2013, I served and filed copies of the attached ENERGY COMMISSION STAFF COMMENTS ON OLD SPANISH TRAIL ASSOCIATION MOTION FOR SUBPOENA DUCES TECUM, dated February 20, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/hiddenhills/>.

The document has been sent to the other persons on the Service List above in the following manner:

(Check one)

For service to all other parties and filing with the Docket Unit at the Energy Commission:

X I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the US mail with first class postage to those parties noted above as "hard copy required"; OR

____ Instead of e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: February 20, 2013

/s/
Pamela Fredieu
Legal Secretary