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April 8, 2009

JOHN A. MCKINSEY  
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**VIA PERSONAL DELIVERY**

Mr. Mike Monasmith, Siting Project Manager  
California Energy Commission  
1516 Ninth Street, MS-15  
Sacramento, CA 95814

<b>DOCKET</b>	
<b>07-AFC-6</b>	
DATE	APR 08 2009
RECD.	APR 09 2009

**Re: Carlsbad Energy Center Project (07-AFC-6)**  
**Notice of Submittal of Application for Designation of Confidential Records**

Dear Mr. Monasmith:

On April 9, 2009, Carlsbad Energy Center LLC ("Applicant") submitted to Executive Director Melissa Jones an Application for Designation of Confidential Records ("Application") related to the Carlsbad Energy Center Project ("CECP"). Without disclosing the contents of the submitted information, Applicant believes the related document resolves any outstanding issues related to Emission Reduction Credits required for the proposed CECP.

Due to the confidential nature of the records, Applicant cannot disclose the nature of the documents to the public, including parties to this proceeding. Nevertheless, I am including with this notice a copy of the Application for your records and intend to serve same on all parties to this proceeding.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me directly.

Very truly yours,

A handwritten signature in cursive that reads "John A. McKinsey".

John A. McKinsey

JAM:kjh

Enclosure (without attachment)

cc: See Attached Proof of Service



980 Ninth Street, Suite 1900  
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April 9, 2009

ALLISON D. COOK  
Direct (916) 319-4759  
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**VIA PERSONAL DELIVERY**

Ms. Melissa Jones, Executive Director  
California Energy Commission  
1516 Ninth Street, MS-39  
Sacramento, CA 95814

**Re: Carlsbad Energy Center Project (07-AFC-6)  
Application for Designation of Confidential Record**

Dear Ms. Jones:

Carlsbad Energy Center LLC (the "Applicant") submits this Application for Designation of Confidential Record ("Application") with respect to the attached information pertaining to the Carlsbad Energy Center Project ("CECP"). Through this letter, Applicant requests confidential designation of a record under Title 20, California Code of Regulations, section 2505. Applicant understands that, pursuant to Title 20, California Code of Regulations, sections 2505(a)(2) and 2505 (a)(3)(B), the attached information will not be publicly disclosed while this Application, or any appeal of the California Energy Commission's ("CEC") determination on the Application, remains pending.

Applicant provides the following in support of this Application:

*(a) Description/Separation of the Confidential Records*

The information identified as "Enclosure A" and marked "Confidential" (hereinafter "Submitted Information") is the subject of this Application and submitted under seal. The Submitted Information contains confidential information related to Applicant's strategy and plans to secure Emission Reductions Credits ("ERCs").

*(b) Specific Indication of Those Parts of the Record to be Kept Confidential*

Applicant requests the Commission designate the Submitted Information as confidential in its entirety.



**VIA PERSONAL DELIVERY**

Ms. Melissa Jones, Executive Director  
April 9, 2009  
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*(c) The Length of Time the Record Should be Kept Confidential*

Due to the proprietary nature of the Submitted Information, Applicant requests the Submitted Information be kept confidential in perpetuity.

*(d) Provisions of Law Allowing the Commission to Keep the Documentation Confidential*

Government Code section 6255 of the California Public Records Act permits public agencies to withhold any public record where the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. This provision allows the CEC to keep the Submitted Information confidential. The CEC should give the Submitted Information confidential treatment pursuant to section 6255 because public interest is best served in this case by keeping information related to Applicant's negotiation strategies regarding ERCs confidential due to the competitive nature of the market. The release of such information could hinder the process by which companies negotiate within the ERC market.

In addition, Applicant is bound by contract to maintain the confidentiality of the Submitted Information unless written consent is given by parties identified in the Submitted Information. To that end, Applicant obtained written consent from all involved parties to present the Submitted Information to the CEC under confidential cover.

*(e) Aggregation and Masking of the Confidential Information*

The Submitted Information has been distilled from the broader business strategy that Applicant has developed for the Project and represents the maximum extent to which the information can be aggregated and masked.

*(f) The Submitted Information is Presently Confidential*

Applicant has not disclosed the Submitted Information to anyone other than its employees, affiliate employees, consultants, and attorneys assisting Applicant in its efforts to related to the pending Application for Certification (07-AFC-6). Furthermore, Applicant has not released any of the Submitted Information to any member of the general public and has prohibited its employees, affiliate employees, consultants, and attorneys from releasing to the public any portion of the Submitted Information at any time.



**VIA PERSONAL DELIVERY**

Ms. Melissa Jones, Executive Director  
April 9, 2009  
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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. As attorney for Carlsbad Energy Center LLC, I am authorized to make this certification and submit this Application on behalf of the Applicant.

Dated: April 9, 2009

Stoel Rives LLP

By:   
Allison D. Cook

Attachment A

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](http://WWW.ENERGY.CA.GOV)

APPLICATION FOR CERTIFICATION  
FOR THE CARLSBAD ENERGY  
CENTER PROJECT

Docket No. 07-AFC-6  
PROOF OF SERVICE  
(Revised 4/08/2009)

**Carlsbad Energy Center Project**  
**Notice of Submittal of Application for Designation of Confidential Records**

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 07-AFC-6  
1516 Ninth Street, MS-4  
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[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**APPLICANT**

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**COUNSEL FOR APPLICANT**

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**INTERVENORS**

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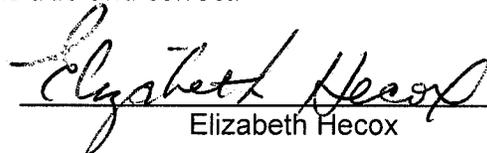
**DECLARATION OF SERVICE**

I, Elizabeth Hecox, declare that on April 9, 2009, I deposited copies of the aforementioned document in the United State mail at 980 Ninth Street, Suite 1900, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

**OR**

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
Elizabeth Hecox