

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

October 26, 2007

Mr. Scott A. Galati
Galati/Blek LLP
555 Capitol Avenue, Suite 600
Sacramento, CA 95814

DOCKET	
07-AFC-7	
DATE	OCT 26 2007
RECD.	OCT 26 2007

RE: Application for Confidentiality: Offset Strategy
Kings River Conservation District
Docket No. 07-AFC-7

Dear Mr. Galati:

On October 12, 2007, the Kings River Conservation District (KRCD) on behalf of the Community Power Plant (CPP) filed an application for confidential designation in the above-referenced Application for Certification (AFC). KRCD seeks a designation of confidentiality for its "Confidential Offset Strategy" document. The application states, in part:

The information submitted is a special compilation developed by KRCD and provides KRCD with an advantage over potential competitors who have not developed such a compilation of information, offset holders, and offset pricing strategies (the material does not include air emissions data which is susceptible to public disclosure under Government Code Section 6254.7). In addition to the complete offset strategy, disclosure of potential sources of emissions offsets may hinder current negotiations.

The California Public Records Act allows for non-disclosure of trade secrets. (Gov. Code, § 6254(k), Evid. Code, § 1060.) The California Courts have traditionally used the following definition of trade secret:

[A] trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

KRCD makes a reasonable argument under the California Energy Commission's (Energy Commission) regulations for classifying the identity of its offset strategy as a trade secret, providing the applicant with a competitive advantage over rival developers, in accordance with the above standards. (Cal. Code Regs., tit. 20, § 2505.) Therefore, it is in the public interest that non-disclosure of this offset strategy be given confidentiality, so as not to interfere with negotiations.

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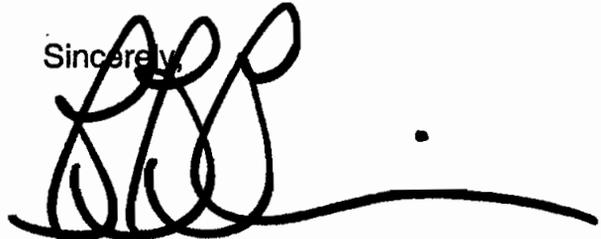
I therefore grant temporary confidentiality to KRCD's offset strategy until issuance of the Preliminary Determination of Compliance. Accordingly, it is in your best interest that negotiations for offsets be completed by this time.

Any subsequent submittals related to potential offset sources can be deemed confidential for the temporary term specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505 subdivisions (a)(1)(G) and 2505(a)(4), if you file a certification under penalty of perjury that the new information is substantially similar to that which is granted confidential status by this determination.

Persons may petition to inspect and/or copy those records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

Finally, KRCD may wish to appeal this determination. Be advised that an appeal of this determination must be filed within fourteen days from the date of this letter. The procedures and criteria for appealing any part of this determination are set forth in the California Code of Regulations, title 20, section 2505. If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

B. B. BLEVINS
Executive Director

cc: Project Manager, 07-AFC-7
Docket Unit