

DOCKETED

Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	204223
Document Title:	AFC - Application for Confidential Designation
Description:	Appendix E-3 - Cultural Resources Record Search CD's are too large to file. For a copy see Docket Staff.
Filer:	Sabrina Savala
Organization:	Latham & Watkins, LLP
Submitter Role:	Applicant Representative
Submission Date:	4/16/2015 12:01:46 PM
Docketed Date:	4/16/2015

LATHAM & WATKINS LLP

April 9, 2015

Mr. Robert Oglesby
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: **Application for Confidential Designation**
NRG Energy Center Oxnard LLC, Puente Power Project
Application For Certification, Technical Appendices

Dear Mr. Oglesby:

NRG Energy Center Oxnard LLC (“Applicant”) has submitted an Application for Certification (“AFC”) for the Puente Power Project. The California Energy Commission (“CEC”) has established standards for preparing AFCs that require Applicant to submit various information and data related to cultural resources, archaeological resources and paleontological resources, some of which is confidential in nature. Accordingly, as part of the AFC, Applicant is filing the following confidential technical appendices (collectively, the “Confidential Record”):

- AFC, Appendix E-1: Archaeological Resources Technical Report
- AFC, Appendix E-3: Cultural Resources Record Search
- AFC, Appendix I: Paleontological Resources Technical Report

Applicant requests that the entire Confidential Record be designated confidential and be permanently maintained as confidential pursuant to California Government Code § 6254(r). The Confidential Record contains sensitive information related to cultural, archaeological, paleontological or historical objects, structures, landscapes, resources, sacred places, or sites of concern to local Native Americans or other ethnic groups, or resources or objects described in California Public Resources Code §§ 5097.9 or 5097.993. If the information in the Confidential Record is released to the public, there is a risk that the information could be used to loot,

650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Tel: +1.714.540.1235 Fax: +1.714.755.8290
www.lw.com

FIRM / AFFILIATE OFFICES

Abu Dhabi	Milan
Barcelona	Moscow
Beijing	Munich
Boston	New Jersey
Brussels	New York
Century City	Orange County
Chicago	Paris
Doha	Riyadh
Dubai	Rome
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Shanghai
Hong Kong	Silicon Valley
Houston	Singapore
London	Tokyo
Los Angeles	Washington, D.C.
Madrid	

LATHAM & WATKINS^{LLP}

vandalize, or otherwise damage sensitive cultural, archaeological, historical and/or paleontological resources.

According to the CEC's regulations, an application for confidential designation "shall be granted if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential." Title 14, California Code of Regulations, § 2505(a)(3)(A). The Applicant believes this letter establishes a reasonable claim for confidentiality based on the applicability of Government Code § 6254(r).

Questionnaire: Application For Confidential Designation

To further support Applicant's request, we provide responses to the California Energy Commission's questionnaire regarding applications for confidential designation:

1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.

See description above of the Confidential Record.

1(b). Specify the part(s) of the record for which you request confidential designation.

Applicant requests confidential designation for the entire Confidential Record.

2. State and justify the length of time the Commission should keep the record confidential.

Applicant requests that the Confidential Record be kept confidential indefinitely to protect potential sensitive cultural, archaeological, and paleontological resources sites. If the descriptions of the resources or locations of the sites are released to the public, there is a risk of looting, vandalism or other degradation.

3(a). State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.

The Confidential Record contains sensitive information related to cultural, archaeological, paleontological and/or historical objects, structures, landscapes, resources, sacred places, and/or sites of concern to local Native Americans or other ethnic groups, or resources or objects described in California Public Resources Code §§ 5097.9 or 5097.993. If the information in the Confidential Record is released to the public, there is a risk that the information could be used to loot, vandalize, or otherwise damage sensitive cultural, archaeological, paleontological and/or historical resources.

LATHAM & WATKINS^{LLP}

- 3(b). *Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the cost or difficulty with which the information could be legitimately acquired or duplicated by others.*

The public interest will be served by nondisclosure by preventing looting, vandalism or other degradation of the cultural, archaeological, and/or paleontological resources described in the Confidential Record. Such looting, vandalism or other degradation would impair or preclude cultural, archaeological, historic or religious study of the resources or sites.

4. *State whether the record may 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.*

Applicant believes that CEC staff can incorporate a generalized summary of the information contained in the Confidential Record to properly describe the basis for its analysis without disclosing information specific enough to allow looting, vandalism, or other degradation. Applicant requests that the Confidential Record not be disclosed even if aggregated with other information or redacted to conceal certain information.

5. *State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

The Applicant has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, consultants or others working as part of or related to the Project application.

I have been authorized to make this application and certification on behalf of the Applicant. With my signature to this letter, 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.

Very truly yours,

/s/ Michael Carroll

Michael Carroll
of LATHAM & WATKINS LLP

