

DOCKETED

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Project Title:	Carlsbad Energy Center - Compliance
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Document Title:	Response LTR re Application for Confidential Designation: Response to the Commission's Data Requests Nos. 31 & 32
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CALIFORNIA ENERGY COMMISSION1516 NINTH STREET
SACRAMENTO, CA 95814-5512

November 20, 2014

John A. McKinsey
Locke & Lord LLP
500 Capitol Mall, Suite 1800
Sacramento, CA 95814

RE: **Carlsbad Energy Center**
Application for Confidential Designation: Response to the Commission's
Data Requests Nos. 31 and 32
Docket No. 07-AFC-06C

Dear Mr. McKinsey:

The California Energy Commission is in receipt of an Application for Confidentiality submitted on behalf of Carlsbad Energy Center ("Applicant"). The Application seeks confidential designation for the following documents:

- 1) Responses to Commission Staff's Data Requests Nos. 31 and 31.

The application states:

The information contained therein assists in identifying potential locations of culturally sensitive resources in the Project area and the one mile buffer. Consequently, any disclosure of this information could heighten the risk of unauthorized excavation of such resources, and/or unauthorized removal of the same from locations of potential resources referenced in the report.

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Energy Commission to keep the record confidential."

The California Public Records Act provides for the nondisclosure of archaeological site information and reports. (Gov. Code, § 6254.10.) The Public Records Act also recognizes the confidentiality principles of federal law. (Gov. Code, § 6254(k).) The Archaeological Resources Protection Act establishes a clear, national legal policy that

John A. McKinsey
November 20, 2014
Page 2

all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. § 470hh.) Non-disclosure of cultural resources, such as the location information that you have submitted is expressly in the public interest. Therefore, Applicant's confidentiality application seeking confidentiality of cultural resource site location information contained within the data request responses are granted in their entirety. Resource site location data will be kept confidential for an indefinite period.

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

Be advised that persons may petition to inspect or copy 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. If you have any questions concerning this matter, please contact Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



Robert P. Oglesby
Executive Director

cc: Docket Unit
Mike Monasmith Energy Commission Project Manager