

CALIFORNIA ENERGY COMMISSION

1518 NINTH STREET
SACRAMENTO, CA 95814-5512

October 23, 2007

Mr. John A. McKinsey
Stoel Rives, L. L. P.
770 L Street, Suite 800
Sacramento, CA 95814

DOCKET	
07-AFC-6	
DATE	OCT 23 2007
RECD.	OCT 24 2007

**RE: Cultural & Paleontological Resources, Confidentiality Application,
Carlsbad Energy Center Project, Docket No. 07-AFC-6**

Dear Mr. McKinsey:

On October 12, 2007, the Carlsbad Energy Center Project LLC (Carlsbad Energy) filed an application for confidentiality with the California Energy Commission. The confidentiality application seeks confidentiality for "1) cultural resources (Attachment A); and, 2) paleontological resources (Attachment B)." Carlsbad Energy relies on Government Code section 6254 (k) as its basis for confidentiality.

Carlsbad Energy's application states, in part:

Attachment A contains information regarding cultural resources in the Project area that may be impacted by the Project. This cultural resources information includes confidential maps of cultural resources sites and confidential results of a field survey, a literature search, and archival research on potential cultural resources. The second component of the Submitted Information, Attachment B, contains the results of a records search and literature review for paleontological resources in the vicinity of the CECP site and an assessment of paleontological resources in this area. With respect to Attachment A, Carlsbad Energy requests that the [Energy] Commission designate the records as confidential in their entirety. . . . With respect to Attachment B, Carlsbad Energy requests that the [Energy] Commission designate the records as confidential in their entirety.

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 Commission to keep the record confidential."

The California Public Records Act recognizes the confidentiality principles of federal law. (Gov. Code, sec. 6254(k).) The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. sec. 470hh.) Non-disclosure of the cultural and paleontological resource

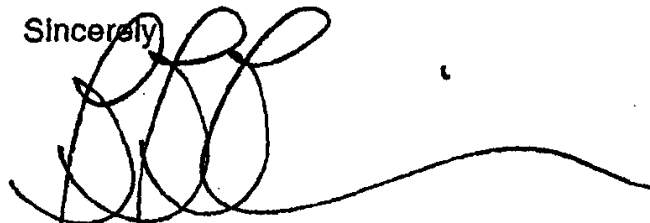
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information that Carlsbad Energy has submitted is expressly in the public interest. Therefore, Carlsbad Energy's confidentiality application is granted in its entirety, and the information will be kept confidential for an indefinite period.

Any subsequent submittals related to cultural and/or paleontological 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 that which is granted confidential status by this determination.

Finally, persons may petition to inspect or copy the 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 further 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 large, overlapping loops and a long horizontal flourish extending to the right.

B. B. BLEVINS
Executive Director

cc: Docket Unit
Energy Commission Project Manager