

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

September 30, 2008

DOCKET
08-AFC-10
DATE SEP 30 2008
RECD. OCT 01 2008

David Wiseman
Galati Blek, LLP
555 Capital Avenue, Ste. 600
Sacramento, California 95814

RE: **Cultural Resources, Application for Confidentiality,
Northern California Power Agency
Docket No. 08-AFC-10**

Dear Mr. Wiseman:

On September 12, 2008, Northern California Power Agency (NCPA) filed an Application for Confidentiality on behalf of the Lodi Energy Center (LEC) (Docket No.08-AFC-10). The Application seeks confidentiality for cultural resources information contained in LEC's Application for Certification. Specifically, the LEC requests confidential designation of the following portions of the Application for Certification:

- Appendix 5.3E, Previously Conducted Surveys
- Appendix 5.3C, CHRIS Reports

You state that the Appendixes:

... should be kept confidential indefinitely to protect potential cultural resources sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting. . . Such looting would preclude scientific study of the sites to obtain data about the cultural resource areas.

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 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.

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sec. 470hh.) Non-disclosure of archeological resources, such as the information that you have submitted in the Appendixes, is expressly in the public interest.

Therefore, LEC's September 12, 2008, confidentiality application for the above noted Appendixes is granted in its entirety. The records 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 Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,



MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager