

CALIFORNIA ENERGY COMMISSION

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SACRAMENTO, CA 95814-5512

November 6, 2008

Stephen Thome
Orange Grove Energy, L.P.
1900 East Golf Road, Ste. 1030
Schaumburg, IL 60173

DOCKET	
08-AFC-4	
DATE	NOV 06 2008
RECD.	NOV 06 2008

**RE: Cultural Resources Survey Report; Application for Confidentiality
Orange Grove Project
Docket No. 08-AFC-4**

Dear Mr. Thome:

On October 8, 2008, Orange Grove Energy, L.P., filed an Application for Confidentiality on behalf of the proposed Orange Grove Project (Docket No.08-AFC-04). The Application seeks confidentiality for the Supplemental Archaeological Survey Report ("Report") for Orange Grove's Application for Certification. Specifically, you request that the following parts of the Report (collectively, "Appendices") be designated as confidential:

Appendix B, Information Center Records Search Results
Appendix D, Archaeological Site Record

You state that these Appendices :

. . . should be kept confidential in perpetuity. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting or other acts of vandalism to the cultural resources identified. . . .The (Appendices) identify site locations and areas of potential Native American cultural significance. . . The public interest will be served by nondisclosure by preventing looting of the cultural resource sites described in the (Appendices). 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

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(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 archeological resources, such as the information that you have submitted in the Appendices, is expressly in the public interest.

Therefore, Orange Grove's October 8, 2008, confidentiality application for the Appendices is granted in its entirety 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
Felicia Miller, Energy Commission Project Manager