

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

April 16, 2009

DOCKET**08-AFC-4**

DATE APR 16 2009

RECD. APR 16 2009

R. Michael Jones
Orange Grove Energy, L.P.
1900 East Golf Rd., Ste. 1030
Schaumburg, IL 60173

**RE: Cultural Resources Monitoring and Mitigation Plan
Application for Confidentiality,
Orange Grove Energy, L.P.
Docket No. 08-AFC-4**

Dear Mr. Jones:

On March 19, 2009, Orange Grove Energy, L.P. (Orange Grove), filed an application for confidentiality to the above-captioned docket. Orange Grove seeks confidentiality for Appendix C from the Orange Grove Project Cultural Resources Monitoring and Mitigation Plan (CRMMP).

The application for confidentiality states, in part:

Appendix C includes two (2) cultural resource location maps. These depict the locations of previously known and newly recorded or updated archaeological sites. . . . All information garnered from record searches was transmitted by the South Coast Information Center of the California Historical Resources Information System (CHRIS) and submitted to the qualified consultant according to the terms of a confidentiality agreement, . . . If the descriptions of the locations of the sites are released to the public domain, there is risk of looting or other acts of vandalism to the cultural resources identified. . . . The public interest will be served by nondisclosure by preventing looting of the cultural resource sites described in the above reference figures.

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, § 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. § 470hh.) Non-disclosure of the archaeological and cultural resources, such as the

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information that you have submitted, is expressly in the public interest, to be kept confidential pursuant to the Archaeological Resources Protection Act. Therefore, Orange Grove's application for confidentiality will be granted in its entirety, and Appendix C to the CRMMP will be kept confidential for an indefinite period.

Please note that any subsequent submittals related to this application 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 Orange Grove files a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

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 questions concerning this matter, please contact Deborah R. Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,



MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager