

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

August 27 2009

DOCKET**08-AFC-9**

DATE 8/27/2009

RECD. 8/31/2009

Marc Campopiano
Latham & Watkins
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626-1925

**RE: Applications for Confidentiality, Biological Mitigation Map and
Revised Biological Mitigation Map
City of Palmdale
Docket No. 08-AFC-9**

Dear Mr. Campopiano:

On July 27, 2009, the City of Palmdale (Applicant) filed an Application for Confidentiality on behalf of the Palmdale Hybrid Power Plant (Docket No.08-AFC-9). The Application seeks confidentiality for Biological Mitigation Map for the City's Application for Certification. On August 24, 2009, Applicant submitted a second application for confidentiality, for the Revised Biological Mitigation Map. The applications are substantially similar.

The applications state that the maps (both the original and the revised) should be:

. . . kept confidential indefinitely in order to ensure protection of potentially sensitive resources and for financial reasons, as disclosure of the desirability of these areas could affect land acquisition prices.

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." Although the applications site to California Code of Regulations, title 20, section 2505, for general California Energy Commission confidentiality provisions, the applications do not cite to the Public Records Act, or any other provision of law, that would provide the legal basis for concluding that the information should be confidential.

Due to the reasons stated above, the applications do not provide sufficient explanation upon which the Commission may grant the requests, and the applications for confidential designation of Applicant's Biological Mitigation Map and Revised Biological

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Mitigation Map are both denied. I invite you to file a *new* application for confidentiality if there are legal provisions which you believe support your requests.

The procedures and criteria for appealing any part of this decision are set forth in the California Code of Regulations, title 20, section 2505. Be advised that an appeal of this decision must be filed within fourteen days from my decision. During those fourteen days, the information will not be publicly disclosed. 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