

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

April 16, 2009

DOCKET

09-AFC-1

DATE April 16 2009

RECD. April 16 2009

Thomas Lu
22850 So. Wilmington Ave.
Carson, CA 90749**RE: Paleontological Resources Technical Report:
Application for Confidentiality,
Watson Cogeneration Company
Docket No. 09-AFC-1**

Dear Mr. Lu:

On March 19, 2009, Watson Cogeneration Company (Watson) filed an application for confidentiality to the above-captioned docket, on behalf of Watson Cogeneration Steam and Electric Reliability Project. Watson seeks confidentiality for the Paleontological Resources Technical Report, dated 8 August 2008.

Watson's application for confidentiality states, in part:

The Technical Report should be kept confidential indefinitely to protect potential paleontological resources sites. If the descriptions of the location of the sites are released to the public domain, there is a risk of looting. . . . The Technical Report specifically identifies site locations and areas of potential paleontological significance. . . . The public interest would be served by nondisclosure by preventing the unauthorized looting of the paleontological resource sites described in the Technical Report. Such looting would preclude scientific study of the sites to obtain data about the paleontological 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, § 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 paleontological resources, such as the information that you have submitted, is expressly in the public interest, to be kept confidential pursuant to the Archaeological Resources Protection Act. Therefore, Watson's application for confidentiality will be granted in its entirety, and the Paleontological Resources Technical Report will be kept confidential for an indefinite period.

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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 Watson 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,

A handwritten signature in black ink, appearing to read 'Melissa Jones', with a large, sweeping flourish at the end.

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager