

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

July 9, 2009

DOCKET
09-AFC-2DATE July 09 2009RECD. July 13 2009Jeffery Harris
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816**RE: Cultural Resources: Application for Confidentiality,
TID Almond 2 Power Plant
Docket No. 09-AFC-2**

Dear Mr. Harris:

On June 10, 2009, Turlock Irrigation District ("TID" or "Applicant") filed an application for confidentiality to the above-captioned docket, on behalf of TID Almond 2 Power Plant. TID seeks confidentiality for Attachment DA5.3-1 of the Application for Certification for the TID Almond 2 Power Plant.

TID's application for confidentiality states that the information is exempt from disclosure under the California Public Records Act, Government Code section 6254(r) and 6254.10. The application goes on to state:

The public interest in nondisclosure is that disclosure may enable location of these resources by thieves, vandals, or persons conducting unauthorized collection of materials.

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.) Furthermore, the Public Records Act specifically exempts disclosure of records of Native American graves, cemeteries, and sacred places. Non-disclosure of the archaeological and cultural 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, TID's application for confidentiality will be granted in its entirety and Attachment DA5.3-1 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

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application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if TID 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,

/S/

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager