

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

October 23 , 2009

Maggie Fitzgerald
URS Corporation
2020 East First Street, Suite 400
Santa Ana, CA 92705

DOCKET**06-AFC-5C**DATE OCT 23 2009RECD. OCT 23 2009

RE: **Cultural Resources Application for Confidentiality,
Panoche Energy Center
Docket No. 06-AFC-5C**

Dear Ms. Fitzgerald:

On September 21, 2009, Panoche Energy Center, LLC, filed an application for confidentiality for the Panoche Energy Center (Docket No. 06-AFC-5). The application seeks confidentiality for portions of the Petition to Amend Final Commission Decision, specifically the "Cultural Resources Report Attachment 2, Records Search Results, and Attachment 3, Native American Consultation," (hereinafter referred to as "the Attachments"). Applicant states that the Attachments:

. .are essentially equivalent to the information maintained by the State Historical Resources Commission, which are exempted from disclosure...
. The public interest would be served by nondisclosure by preventing the unauthorized looting of the archaeological resources described in (the Attachments). Such looting would preclude scientific study of the worthy site to gain historical data about human use of the area.

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, 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 cultural and archaeological resources, such as the information that you have submitted in the Report, is expressly in the public interest.

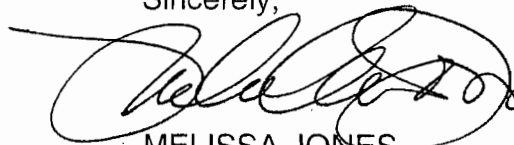
Therefore, Panoche Energy Center's September 21, 2009, confidentiality application for the two Attachments is granted in its entirety. The Attachments will be kept confidential for an indefinite period.

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Any subsequent submittals related to archaeological 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,

A handwritten signature in black ink, appearing to read 'Melissa Jones', enclosed within a large, loopy circular flourish.

MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager