

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

July 21, 2009

**DOCKET****09-AFC-3**

DATE JUL 21 2009

RECD JUL 21 2009

Jeffery Harris  
Ellison, Schneider & Harris, LLP  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816

RE: **Cultural Resources: Application for Confidentiality,  
Mariposa Energy Project  
Docket No. 09-AFC-3**

Dear Mr. Harris:

On June 15, 2009, Mariposa Energy, LLC ("Applicant") filed an application for confidentiality to the above-captioned docket, on behalf of Mariposa Energy Project. Applicant seeks confidentiality for Appendix 5.3C (CHRIS Literature Search Results) and Appendix 5.3E (Maps of Previously Conducted Surveys) of the Application for Certification for the Mariposa Energy Project.

The 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, Mariposa Energy Project's application for confidentiality will be granted in its entirety and Appendices 5.3C and 5.3E will be kept confidential for an indefinite period.

Mr. Jeffery Harris

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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 Applicant 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, stylized flourish at the end.

MELISSA JONES  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager