

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

September 11, 2012

California Energy Commission

DOCKETED**09-AFC-8C**

TN # 67072

SEP 11 2012

Matthew Tennyson
AECOM
1420 Kettner Boulevard Suite 500
San Diego, CA 92101

RE: **Genesis Solar Energy Project Application for Confidential Designation: Cultural Resources Phase I LIDAR Report**
Docket No. 09-AFC-8

Dear Mr. Tennyson:

The California Energy Commission is in receipt of your Application for Confidentiality submitted on behalf of the Genesis Solar Energy Project, ("Applicant"). The Application seeks confidential designation for the following sections of a report related to cultural resources:

- 1) Maps showing the location of cultural resources included in the Phase I LIDAR Report.

Applicant states that the maps in the report identify the potential locations of cultural resource sites in the project area, and that:

...disclosure may result in vandalism and unlawful disturbance of sites.

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 provides for the nondisclosure of archaeological site information and reports. (Gov. Code, sec. 6254.10.) The Public Records Act also 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 resources, such as the information that you have submitted in the above-referenced maps, is expressly in the public interest.

Therefore, the Applicant's Confidentiality Application is granted in its entirety. The maps

Matthew Tennyson
September 11, 2011
Page 2

Therefore, the Applicant's Confidentiality Application is granted in its entirety. The maps evidencing the location of cultural resources contained within the Phase I LIDAR Report will be kept confidential for an indefinite period. Reports with the maps removed are public records.

Any subsequent submittals related to the location of cultural 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 Jared Babula, Senior Staff Counsel, at (916) 651-1462.

Sincerely,



Robert P. Oglesby
Executive Director

cc: Docket Unit
Eric Veerkamp, Commission Project Manager