

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

July 30, 2009

DOCKET**09-AFC-4**

DATE 7/30/2009

RECD. 8/3/2009

David Wiseman
Galati Blek LLP
455 Capitol Mall, Suite 350
Sacramento CA 95814

**RE: Cultural Resources: Application for Confidentiality,
Contra Costa Generating Station
Docket No. 09-AFC-4**

Dear Mr. Wiseman:

On June 30, 2009, Contra Costa Generating Station ("Applicant") filed an application for confidentiality to the above-captioned docket. Applicant seeks confidentiality for documents related to the Application for Certification for the Contra Costa Generating Station. Specifically, Applicant seeks confidentiality for the following:

- Appendix 5.3(B) Cultural Resources Technical Report
- Appendix 5.3(C) California Historical Resources Information System Literature Search results

The application for confidentiality states:

The (Appendices) specifically identify areas of potential cultural, archaeological and historical significance. . . The public interest will be served by nondisclosure by preventing looting of the cultural resources sites described in (the Appendices). Such looting would preclude scientific study of the sites to gain data about the cultural resources 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, § 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, Contra Costa Generating Station's application for confidentiality will be granted in its entirety and the Appendices

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identified above 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 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