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COMPLETED



DOCKET

09-AFC-5

DATE DEC 16 2009

RECD. DEC 22 2009

December 16, 2009

Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

RE: 09-AFC-5 Mojave Solar Project Application for Certification, Deficient or Incomplete Application for Confidentiality Abengoa Mojave (09-SFC-5)

Dear Ms. Jones:

[Mojave Solar LLC] ("Applicant") is the owner of the proposed Mojave Solar Project located in unincorporated San Bernardino County, California (the "Project"). In support of the Application for Certification (AFC) for the Project, Applicant's consultant (SWCA Environmental Consultants) prepared a document entitled *Paleontological Resources Technical Report* (the "Paleontological Report"). In response to the subsequent Deficient or Incomplete Application for Confidentiality Abengoa Mojave (09-SFC-5) notice dated November 30, 2009, please find enclosed five (5) copies each of the archival records search reports prepared by the San Bernardino County Museum and the Los Angeles County Natural History Museum. Applicant requests that these archival records search reports be designated confidential pursuant to 20 CCR Section 2505.

In support of its application for confidential designation, Applicant provides the following information:

1(a). *Title, date and description (including number of pages) of the record for which you request confidential designation.*

Re: Paleontology Literature and Records Review, Harper Dry Lake Development Project (Additional), Mojave Desert, San Bernardino County, California, dated June 5, 2009. Pages: 25

Re: Paleontological resources for the proposed Harper Lake 250MW Solar Permitting Project, SWCA Project # 15302, San Bernardino County, project area, dated March 30, 2009. Pages: 3



1(b). *Specify the part(s) of the record for which you request confidential designation.*

Applicant requests confidential designation for the entire archival records search reports prepared by the San Bernardino County Museum and the Los Angeles County Natural History Museum.

2. *State and justify the length of time the Commission should keep the record confidential.*

The archival records search reports should be kept confidential indefinitely to protect potential paleontological resources sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting.

3(a). *State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.*

The archival records search reports specifically identifies site locations and areas of potential paleontological significance. They are thus protected under Government Code Sections 6254(e) and 6254(k). Protection provided is analogous to that given to Native American sacred places under Section 6254(r) of the Government Code.

3(b). *Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the cost or difficulty with which the information could be legitimately acquired or duplicated by others.*

The public interest will be served by nondisclosure by preventing looting of the paleontological resource sites described in the archival records search reports. Such looting would preclude scientific study of the sites to obtain data about the paleontological resource areas.

4. *State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identify of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

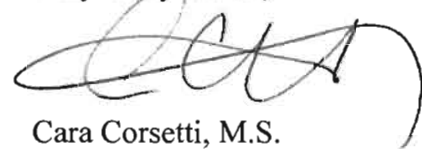
Applicant believes the California Energy Commission staff can incorporate a generalized summary of the information contained in the archival records search reports to properly state the basis for its analysis without disclosing information specific enough to facilitate looting.

5. *State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

Applicant has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, and consultants working on the AFC for the Project. Moreover, this information has not been disclosed to persons employed by or working for the Applicant except on a “need-to-know” basis. Applicant has marked this information “confidential” and has instituted a policy that it be segregated for other Project files.

I have been authorized to make this application and certification on behalf of Applicant. With my signature to this letter, I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge.

Very Truly Yours,



Cara Corsetti, M.S.