

# GALATI | BLEK LLP

## COMPLETED

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November 16, 2009

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

<b>DOCKET</b>	
<b>09-AFC-6</b>	
DATE	NOV 16 2009
RECD	NOV 16 2009

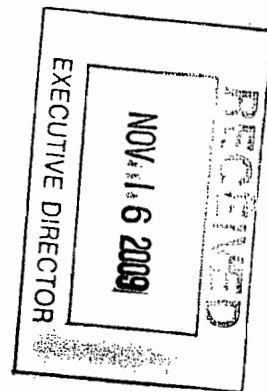
Subject: Request for Confidential Designation  
Confidential Fossil Occurrence Points Attachment A  
Palen Solar Power Project (09-AFC-7)

Dear Ms. Jones,

Solar Millennium LLC, as an owner of the Palen Solar Power Project (PSPP) requests that the attached information be designated confidential pursuant to 20 CCR Section 2505. This information is being supplied to the California Energy Commission (CEC) as Confidential Fossil Occurrence Points Attachment A.

In support of its application for confidentiality designation, Solar Millennium LLC, provides the following information:

APPLICANT: Solar Millennium LLC  
ADDRESS: 1625 Shattuck Avenue, Suite 270  
Berkeley, CA 94709-1161



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

Confidential Fossil Occurrence Points Attachment A. We request that these three documents in their entirety are granted confidential designation.

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

The reports identified above in 1(a), in their entirety:

- Confidential Fossil Occurrence Points Attachment A.

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

Confidential Fossil Occurrence Points Attachment A 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 potential for looting of that site.

- 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.*

Confidential Fossil Occurrence Points Attachment A specifically identifies areas of potential cultural, archaeological, paleontological and historical significance. It is 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 ease 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 cultural and paleontological resources sites described in Confidential Fossil Occurrence Points Attachment A. Such looting would preclude scientific study of the sites to gain data about the cultural and paleontological resources of the area.

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 identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

Solar Millennium LLC, believes the CEC staff will require the specific information contained in Confidential Fossil Occurrence Points Attachment A to properly perform its analysis. Aggregation of information would hinder a complete CEC analysis. However, Solar Millennium LLC, believes the CEC can incorporate a generalized summary of information contained in the Confidential Fossil Occurrence Points Attachment A 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.*

Solar Millennium LLC, has not disclosed any of the subject information to anyone other than its employees, attorneys, and consultants working on the PSPP. Moreover, this information will not be disclosed to any other persons employed by or working for Solar Millennium LLC except on a "need to know" basis. Solar Millennium LLC, is marking this information "Confidential" and is instituting a policy that segregates this information from other PSPP files and that access to it be restricted to a designated confidential information manager or managers within Solar Millennium LLC or its attorneys/consultants.

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 and I, attorney with the Law Firm of GalatiBlek, LLP, am authorized to make the application and certification on behalf of the applicant.



David Wiseman  
Counsel for Solar Millennium LLC