

## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

December 16, 2009

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

<b>DOCKET</b>	
<b>09-AFC-7</b>	
DATE	<u>DEC 16 2009</u>
RECD.	<u>DEC 22 2009</u>

RE: **Application for Confidentiality – Fossil Occurrence Points  
Palen Solar Power  
Docket No. 09-AFC-7**

Dear Mr. Wiseman:

On November 16, 2009, Solar Millennium LLC, filed an application for confidentiality to the above-captioned docket, on behalf of Palen Solar Power Project (Applicant). The application seeks confidentiality for Fossil Occurrence Points Attachment (“Attachment”). Applicant states that the Attachment:

. . . specifically identify areas of potential cultural, archaeological, paleontological and historical significance. . . . The public interest will be served by nondisclosure by preventing looting of the cultural and paleontological resources sites described in (the Attachment). Such looting would preclude scientific study of the sites to gain data about the cultural and paleontological resources of the 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 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 paleontological resources, such as the information that you have submitted in the Attachments, is expressly in the public interest.

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Therefore, Palen Solar Power Project's November 16, 2009, confidentiality application for the Attachments is granted in its entirety. The Attachments will be kept confidential for an indefinite period.

**Any subsequent submittals related to paleontological 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 Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,

/S/

Melissa Jones  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager