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January 13, 2010

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

DOCKET 09-AFC-7
DATE JAN 13 2010
RECD. JAN 13 2010

Subject: Request for Confidential Designation
Confidential Cultural Resource Class I Results for the Palen Pass
Alternative Data Request 121(a) through (d)
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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d).

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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d). A full hard copy of Confidential Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d) with a compact disc (CD) containing all of the information above is being submitted along with four additional copies of responses to Data Request 121(c) and (d). We

request that these 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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d).

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

Confidential Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d) should be kept confidential indefinitely to protect potential cultural resources sites. The information being submitted contains copies of California Historical Resources Information System (CHRIS) record searches, CHRIS reports of previous archaeological excavations and surveys, results of Native American Heritage Commission's sacred lands database search, and letters sent to and received from Native Americans identified by the NAHC pertaining to specific sites. If the information and descriptions contained in the material described above is released into the public domain, there is a potential for looting of those sites.

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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d) specifically identifies areas of potential cultural, archaeological, paleontological, Native American and historical significance. It is thus protected under Government Code Sections 6254(e) and 6254(k). Protection provided is also warranted and 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 archeological resources sites described in Confidential

Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d). Such looting would preclude scientific study of the sites to gain data about the cultural and archeological 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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d) 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 Cultural Resource Class I Results for the Palen Pass Alternative Data Request 121(a) through (d) 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.

A handwritten signature in black ink, appearing to read "David L. Wiseman". The signature is fluid and cursive, with a horizontal line drawn underneath it.

David L. Wiseman
Counsel to Solar Millennium LLC